RURAL CRIME

HEARING

BEFORE THE

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UNITED STATES SENATE

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ON

CRIME IN RURAL AMERICA

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RURAL CRIME

MONDAY, AUGUST 23, 1982

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Burlington, Vt.

The committee met, pursuant to notice, in City Auditorium, Burlington, Vt., Senator Patrick J. Leahy (acting chairman) presiding.

Staff present: Mark H. Gitenstein, minority chief counsel, Judiciary Committee; John D. Podesta, minority chief counsel; and Ben Scotch, minority counsel, Regulatory Reform Subcommittee.

OPENING STATEMENT OF SENATOR PATRICK J. LEAHY

Senator LEAHY. The Senate Judiciary Committee rural crime hearing will come to order. The first panel will be Attorney John Easton; George Cook, U.S. attorney for the District of Vermont; Peter Langrock, attorney from Middlebury; and Dale Gray, State's attorney for Caledonia County. I am glad to see all of you here and the number of people who have come from different parts of the State to testify today.

I am grateful on behalf of the Judiciary Committee to be here. When the Committee Chairman Thurmond of South Carolina and I discussed this, we talked about having the series of rural crime hearings begin in Washington. I was very much against that idea. I was afraid that the so-called rural experts that we might get there would be people whose only view of rural areas was Rock Creek Park in the middle of Washington, D.C., and I wanted very much to go to the source. We are going to have this series of hearings, and the first one is here in Vermont. And we will try to pick other rural areas to do others.

Senator Biden was going to be here today, but the change in the schedule came about because of the anticipated action on the tax bill; but his chief counsel, Mark Gitenstein is here, and Mark, feel free to step in at any time and ask questions.

Violent crime has become everyone's nightmare. Almost one-third of American households were victimized by crime in 1980, and the national bill for this rampage amounted to $125 billion. According to a recent magazine survey, a majority of Americans are afraid to walk in some areas within a mile of their own homes.

In Vermont, as in the rest of rural America, the problems are even more acute. Statistics show that rural crime has risen faster in the last decade than urban crime, and yet relatively little attention has been given to the rural crime problem by Congress. If this has been the year for action in Congress to deal with the effects of crime on our lives and our culture, it is also the year of the shrunken budget and

the tightened belt. I have deep concerns about the collision of these laudable goals. Law enforcement is one area where government is indispensable, and where even the appearance of backing away from the war on crime can have the effect of a major retreat.

There is no way to combat violent crime, drugs, organized crime, and an explosion in youthful crime while cutting the budgets of the major Federal agencies that deal with these problems. This is a time when State and local governments are trying desperately to improve their own capabilities to fight crime and build stronger, better societies. The present administration's attempts to eliminate funding in areas like juvenile justice is a terrible blow and a signal to the States that promotion of the American family does not reach out to troubled youth and to diverting career criminals before their careers begin.

Any retreat from rural law enforcement can mean not only dramatic increases in the cost of crime to society and government, but a tragic change in the quality of rural life.

The training of local law enforcement officials is the cornerstone of the fight against rural crime, and training is principally a responsibility of State and local jurisdictions, not the Federal Government. But the Federal Government has an important role to play in providing financial and other support to local training efforts. I trust that some of you will touch on this theme. There would be no hope of sufficient funding to carry on training effectively in places like Vermont if administration budget figures proposed last fall had become a reality. But law enforcement training is not a partisan matter. It should be the serious business of every administration, Democrat or Republican, and I hope that through hearings like this one today, the seriousness of the problem can be conveyed to Washington and become a priority in every future administration.

As a former prosecutor with many years of experience in Vermont and 16 years in public office, I must tell you that building the apparatus of enforcement and a climate of safety and civility in our communities takes years of planning and continued nurturing. Once gone they will take a very long time to restore.

So, despite a near-universal agreement that crime is bad, here we are, farther behind in the fight against it than we were a decade ago. Our criminal justice system is in disarray. We lack a consensus on purposes and methods. Our criminal enforcement priorities are confused, and our resources misallocated. We have a sentencing system that breeds inequity. The use of broad discretion by courts and parole authorities has backfired. And I could go on in much more detail.

It is a fair question to ask what Vermonters can add to the debate on crime and why a hearing in Burlington with all of the experts who troop before the Judiciary Committee in the course of a session.

The government experts and academics in criminology who gather at Washington are good, and they do make a contribution; but they are far from where crime is happening and especially distant from rural crime. Most of the witnesses who will testify here are involved with the crime problem from day to day. You are closer to the people who are affected by crime and those whose full-time occupations are preventing and combating crime. Theoretical expertise is fine, but I frankly wish that the professionals and academics from Washington

could be here today, so that they could hear firsthand what the problems really are and to ask you about your suggestions for change.

We have on our panel today the attorney general for the State of Vermont, and a good friend, John Easton, who I see in Washington as often as I see him up here. We have George Cook, the U.S. attorney for the District of Vermont, serving a second term as U.S. attorney for the District of Vermont; and from Middlebury, with a distinguished record in both the Vermont State Senate, chairman of the Senate Judiciary Committee for 6 years, and president pro tem of the Vermont State Senate—in fact, that is where we first got to know each other—is Peter Langrock, one of the foremost trial attorneys and defense attorneys in the State of Vermont. One of the reasons I left the State's attorneys office and ran for the U.S. Senate was my constant fear of having to go up against Peter Langrock.

Mr. LANGROCK. You were just afraid your perfect record would be spoiled.

Senator LEAHY. Mr. Langrock is one of the youngest State's attorneys ever in the State of Vermont; and he is one of the youngest people to be admitted to the bar in Vermont. He is one of the commissioners on uniform State laws, and a very active members of both the ABA and the Vermont Bar Association.

We also have Dale Gray, the Caledonia State's attorney, who is again, a member of the Vermont bar, and is now the senior State's attorney for the State?

Mr. GRAY. I believe that is correct.

Senator LEAHY. I had the distinguished pleasure of serving with Mr. Gray as a State's attorney. We would try to keep the eastern and the western sides of the State in equilibrium by meeting outside our towns in Montpelier.

Today, we will start with Attorney General Easton.

STATEMENT OF JOHN EASTON, ATTORNEY GENERAL, STATE OF VERMONT

Mr. EASTON. I must apologize for the lack of a written statement and biographical information. It is an oversight on my part to provide you with such.

I have some oral remarks, which I think will set the stage for the other panelists. You have asked that I overview the State law enforcement efforts, and I will try to do so with some perspectives of my own, and set the stage for the distinguished panel we have assembled here.

You are familiar yourself, but the committee of course is not, with the situation in Vermont. We have law enforcement provided by the State police, by municipal police departments, and the sheriffs; and the amount of law enforcement that the various sheriff's departments provide depend on the other services available by either municipal police or the State police. I think we will hear representatives from those agencies today.

Our district court system is where the bulk of the criminal law enforcement cases are tried. Over 16,000 cases every year are processed in the Vermont district courts.

One change since you have been a State's attorney is that the district court has as of the 1st of July jurisdiction for all criminal cases, not

simply those with less than life imprisonment sentences, but as of July 1, the district court has total jurisdiction over all types of criminal cases, including those with possible life imprisonment.

The caseload has grown about 15 percent more criminal cases than last year. That caused us all to try to ascertain what is responsible for this increase by 15 percent in the criminal caseload.

The State's attorney organization also has an executive director who oversees and coordinates the activities of the State's attorneys. In addition, the attorney general in Vermont has the same criminal jurisdiction as the State's attorney, and my office also does a major portion of the criminal appeals at the Vermont Supreme Court.

We have a statewide defender general system in Vermont. We are funding defense services better than we can find elsewhere in the country. I think this is important and should not be overlooked.

Our correctional system is probably more progressive than a lot of systems, in that we closed the State penitentiary in Windsor. We closed that 7 years ago.

We now have 6 community-based centers, with a population at various times between 500 and 550 inmates. We still have a parole board.

I think that is important, because in some jurisdictions, it has been discussed and suggested that the parole board be eliminated.

That is an overview of the Vermont law enforcement. Statistically, it is difficult to say accurately what the picture of crime is in Vermont, because we don't have a single reporting agency, unlike some States where one agency receives all criminal statistical information.

In Vermont, both the State police as well as the municipal police collect data on crime, but the one thing we do know is that Vermont, like the rest of the Nation, is not new to crime. We have seen an increase in Vermont. We are seeing not only an increase in property crime, but there is also an increase in violent crimes. We are no longer immune from violent crime, which traditionally in Vermont, seemed to be a trickle of that elsewhere in the country. Unfortunately, that has changed.

Still, property crime is the most prevalent crime. During the hearing you will be conducting today, you will hear about this problem around the State. From the State police statistics alone, we know there is, without even taking into account the statistics assembled by the municipal police and the Chief of Police Association, we know that crime against property strikes every 1 hour and 20 minutes in Vermont, on the basis of information compiled in 1981.

With that background, what can the Federal efforts be in Vermont? I am afraid that the Federal effort in the past has been a distinct failure. Basic law enforcement is a State and local responsibility, and the Federal Government has assisted in the past with massive contributions of money, but the Crime Control and Safe Streets Act of 1968, which established LEAA, the Law Enforcement Assistance Association, simply did not work. During the time of that period, during 1968 and 1982, LEAA dispensed $7½ billion, and during that same time they dispensed that money, major crime increased. Violent crime went up by 60 percent; so certainly, just the mere throwing of money at the problem is not going to be the answer. It was an expensive lesson, but I think we can learn from that.

What should we do, or what can we learn from the failure of the LEAA? It was not a complete failure. We do know that some of the projects worked, and I think we should look toward continuing the efforts by the Federal Government, with some continuing financial assistance.

First of all, cooperation is vital; and I think George Cook will describe some of the efforts that the Federal Government is endeavoring to do both nationally and most certainly in Vermont. With the Law Enforcement Coordinating Committee, I think that the Federal Government can assist in the area of training, technical expertise of the FBI, for example, and technical assistance in forensic lab work, data processing, fingerprinting, and the like.

Another area in which the Federal Government can assist is in the area of corrections. The prison in Vermont was closed in 1975; and that was a decision that I applauded. Down there in Windsor, the prison wasn't working. It was housing only a few people, and it was a very expensive, outdated, outmoded facility; and in closing that facility, we entered into an agreement with the Federal Bureau of Prisons, and that agreement provided that up to 40 prisoners at any one time would be housed by the Federal Government; and we are now able to transfer our most violent to the Federal system. By doing so, we now are able to concentrate on the bulk of our resources for those persons where there might be some chance of rehabilitation. I would urge future discussions in this area.

In 1979, the Justice System Improvement Act allowed the LEAA to establish projects for prison industrial work. With that, the ban was removed—the ban on taking any pay for any articles made. I would urge the Judiciary Committee to look at the seven pilots that were established and consider whether in the future some additional pilot projects could be established.

It is not easy to establish prison industry programs. It is also a problem whether they will be competing with local labor. There is the problem in our country today of massive unemployment.

There is another area in which the Federal Government can provide some assistance, and that is in juvenile justice. Earlier you mentioned the need to continue to have Federal juvenile assistance programs. I agree with that. If there is one area which we can make some improvement in the criminal justice system, it is addressing the causes of juvenile delinquency, if we can't meet the problem here, we are certainly not going to meet it at a later level.

I would also commend your attention to both the House bill 4481 and Senator Specter's bill, S. 411. Those bills—I said we could learn from the failure of the LEAA. I think those bills take into account that some modest Federal effort is needed to support the State and local communities; and I think those bills are worthy of the consideration of the Congress.

In closing, before I turn this over to my fellow panelists, I think one thing should be kept in mind. Our criminal justice system is reactive, because it tends to be always addressing the problem after the problem is there. I suspect if we are going to make any improvement at all to reducing crime, we have got to fund programs that will look at the causes of crime and the prevention of crime. We cannot simply con-

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tinue to throw money or react to crime after it has been committed. We must address the problem ahead of time. We must be proactive and not reactive; and I am afraid until we do find programs that really look toward rehabilitation or alternatives, that we are not really going to make any serious inroads into reducing crime.

Senator LEAHY. Thank you, very much. I find it interesting that the specific pieces of legislation that you have referred to, those are the pieces of legislation that I do support. I will also pass onward to Senator Specter and the others what you have had to say.

Mr. Cook, you are the one person representing in effect the Federal Government in the area of law enforcement, and please feel free to give us your statement.

Mr. COOK. Well, as you have just said, Mr. Chairman, I do represent the administration. This is the first time I have represented the administration at a formal panel hearing. As you know, I have lived very much of my life in Vermont and being on the Vermont scene, it is a little bit difficult to relate myself to Washington.

I do have a prepared statement that does reflect the Federal role in Vermont. I won't call it rural crime, but the crime picture at the present time. I will read my statement; and after I finish, if there are any questions, I will be happy to try to answer them. I may possibly go beyond what Washington will expect, but it will not be intentional.

Senator LEAHY. I understand; and I will note that if you care to summarize the statement, I will be happy to place the full statement into the record; and I do have some questions that I will want to ask you and the other members.

Mr. COOK. All right. I will read my statement.

STATEMENT OF GEORGE COOK, U.S. ATTORNEY, DISTRICT OF VERMONT

Mr. COOK. Mr. Chairman and members of the committee, I appreciate the opportunity to appear today in behalf of the Department of Justice to discuss law enforcement efforts in Vermont, particularly joint Federal, State, and local efforts in this district. Because many of my State and local law enforcement colleagues are here today to give the committee their views, I will limit my introductory remarks to a description of two major Department initiatives in the law enforcement area.

First, the Department of Justice is making an unprecedented effort to improve coordination and cooperation among Federal, State, and local law enforcement agencies. Although there have been similar efforts in the past, never before has the Department devoted the time and attention that is now being given to improved cooperation at all levels of law enforcement. The Attorney General has given his strong personal support to creation of working law enforcement coordinating committees in each Federal judicial district. I might add that I would have expected to develop close coordination and cooperation with my law enforcement colleagues in Vermont without being directed to by the Attorney General.

Indeed, during my previous service as U.S. attorney for over 8½ years, the U.S. Attorney's Office for Vermont met regularly with our State's attorneys to coordinate prosecutive matters of mutual interest.

I think though, that the Attorney General was wise to set up a formal program as he has and to systematically develop cooperative procedures which cover all ends of criminal law enforcement, not merely the prosecutive end.

The District of Vermont Law Enforcement Coordinating Committee has met regularly since the beginning of this year, and its some 35 members have reported to me that the committee is a viable forum for sharing information and formulating a suitable operational plan for Federal, State, and local law enforcement efforts in this district.

After the law enforcement coordinating committee develops law enforcement plans tailored to the needs of this judicial district, the committee will then continue to meet on a regular basis to see that the plan is implemented and modified as necessary to meet changing circumstances. I need not tell you, Mr. Chairman, how important this coordination effort can be. Through your work on the Senate Judiciary Committee, you are doubtlessly well aware of the waste which occurs when one law enforcement agency inadvertently duplicates the efforts of another through an uncoordinated investigation. Even more troubling is the injustice which occurs when a criminal case "falls through the cracks" and is not prosecuted.

The Department of Justice is entirely committed to the cooperative concept of law enforcement for our Nation. Indeed, Attorney General Smith has repeatedly demonstrated his personal dedication to the success of such a program by his personal appearances at LECC meetings, by his continued role of leadership and by his public statements in support of LECC activities.

Again, we are working hard to achieve improved cooperation and we believe this will significantly strengthen the overall law enforcement efforts. Fortunately, I believe the district of Vermont has a better base upon which to build than many other districts, but further progress is possible, and we are seeking to achieve it.

The second point I would like to make at the outset, Mr. Chairman, is that there are now pending before the Congress several legislative proposals which, if enacted, would substantially strengthen our ability to control crime. The first of these is the Violent Crime and Drug Enforcement Improvements Act of 1982, which has been introduced as S. 2572 and H.R. 6497. This proposal would shore up Federal bail laws to reduce crime committed by persons released on bail and bail jumps, improve protections for and services to crime victims and witnesses, toughen criminal penalties for drug trafficking, enhance protection for high-level Federal officials, reform our sentencing system to insure more uniform determinate sentences, strengthen our criminal forfeiture laws, completely overhaul insanity defense procedures, facilitate donation of Federal property to States and local governments for prison construction, and make numerous miscellaneous improvements in Federal criminal laws. This bill has been enthusiastically endorsed by the Department of Justice and the White House.

The second bill, which was still being drafted as I was preparing for this hearing, would reform Federal habeas corpus procedures to require greater deference by Federal courts to full and fair State court decisions and establish time limits within which Federal habeas corpus review of State court decisions can be sought.

In this regard, Justice Powell of the Supreme Court has recently called for habeas corpus reform noting that this is the only country in the world where a court can always reopen a closed criminal case without regard to how many years or decades may have passed since the case was tried. While this is not a major problem in this district, it is a recurring problem and is certainly a national problem. Several years ago, one of our Federal prisoners filed more than a dozen habeas corpus petitions in this district, all of which required attention by my office.

The new crime bill will also include exclusionary rule reform to prevent the suppression of evidence where a search or seizure was made in the reasonable, good faith belief that constitutional requirements had been honored. The U.S. Court of Appeals for the Fifth Circuit has already adopted this rule for that circuit, and it would be most helpful if the Congress would, by legislation, establish the same rule for all U.S. courts. In this regard, there is nothing more distressing to our citizens than to have persons clearly guilty of serious crimes go free because of the application of the exclusionary rule, particularly where law enforcement officers had what they reasonably believed to be a valid warrant or were acting pursuant to an objectively reasonable and good faith belief that the search of seizure came within a recognized exception to the warrant requirement.

Obviously, the habeas corpus and exclusionary rule proposals are of vital interest to State and local as well as Federal law enforcement officers, and we will appreciate your careful consideration of these legislative initiatives which we believe are so important to our effort to roll back rising crime rates.

In closing my formal remarks, I would like to briefly mention the two areas of law enforcement where the Federal criminal investigators and prosecutors in my office work closely with our Vermont State and local counterparts; namely, in cases of involved drug prosecutions and Federal firearm violations.

The U.S. Attorney's Office and Federal DEA agents in Vermont have for many years worked closely with State police drug enforcement agents. The U.S. attorney's access to the investigative resources of Federal grand juries and nationwide subpena process, and the ability to charge multiple person drug conspiracies with violation of Federal drug laws have made our office particularly suitable for involved drug prosecutions.

The Federal Government also has the alternative of charging drug dealers with conspiracy counts, and possibly subjecting the fruits of their illegal activities to forfeiture. Our Vermont State's attorneys have assisted us in these complicated drug cases, but the primary role which the U.S. Attorney's Office plays has also freed up our State's attorneys to devote more time to homicides, burglaries, rapes, and other violent crimes.

Second, prosecution by the U.S. Attorney's Office in Vermont provide the sole deterrent in this State for trafficking in firearms by persons with criminal records, particularly records involving violent crime. The U.S. Attorney's Office for Vermont, under a strong commitment from President Reagan and Attorney General Smith, does vigorously prosecute Federal offenses arising from violation of our

Federal firearms statutes. It is primarily in the area of these prosecutions that the U.S. Attorney's Office and Federal agents enforcing Federal firearms statutes provide assistance to our local counterparts in attempting to combat violent crime in Vermont.

The possession of handguns by individuals with criminal records, possession of sawed-off shotguns, and the illegal acquisition and trafficking of firearms within Vermont are all areas of criminal activities which increase the potential for violent crimes.

It is only enforcement of the Federal firearms statutes in Vermont which can effectively deter this conduct. Our U.S. Attorney's Office will continue to assist our State and local counterparts by prosecuting cases wherever the local, as well as the Federal, interests are served.

Mr. Chairman, I again want to say that I appreciate the opportunity to appear today. I welcome your deep interest in law enforcement and will be pleased to respond to any questions the committee may have.

Senator LEAHY. Thank you. I should note for the law enforcement people who may be here at the hearing just a word of what the exclusionary rule is. This is an oversimplification, but basically, if evidence is obtained is violation of constitutional rights of the person against whom it is going to be used, then the evidence is excluded.

In other words, if you have made an illegal search of someone's home and found contraband, you would not be able to use that evidence against the person; or if you made an illegal search and found a murder weapon, you would not be able to use that evidence against them. You can prosecute them, but you are going to have to obtain other evidence.

I found when I was State's attorney, at least among the public, one of the most misunderstood was the exclusionary rule.

I wonder if I might do this for the next two panelists, Mr. Langrock and Mr. Gray, if I might pose a question what I am going to ask Mr. Gray, who will be doing the wrapup for the panel, in his view, is how much of a practical problem the exclusionary rule is in bringing about successful prosecutions. And to Mr. Langrock, who has been both prosecutor and defense attorney, I am going to ask the question, if we did not have the exclusionary rule, are there alternatives which would penalize unconstitutional behavior in law enforcement, while not permitting a guilty defendant to go free, the concern being that if somebody is captured but is turned lose under the exclusionary rule, because of unconstitutional behavior by law enforcement, the public may complain that the suspect is going free. Is there an alternative that will maintain constitutional behavior on the part of law enforcement, and especially when sometimes unconstitutional contact is inadvertent, when it is not done as a malicious thing.

I wonder, Mr. Langrock, in addition to whatever else you are going to say, if you might start from that premise. I think most of us would agree—or certainly people in law enforcement—would agree this is a subject that the public generally find hardest to understand. Unfortunately, it becomes the subject of rhetoric and demagoguery.

STATEMENT OF PETER LANGROCK, ATTORNEY, MIDDLEBURY

Mr. LANGROCK. It is a pleasure to appear on the panel on the positive side, and with a Senator who has been an adversary for many years.

I will try to respond initially to your question. It is difficult to respond directly to the exclusionary rule unless you understand what I think is the definition of crime.

I will regress a minute and get back into that. In my view, with very few exceptions, people don't commit crimes. They get involved in fact patterns, which society has declared to be unacceptable social behavior.

Some crimes are readily recognized as antisocial behavior: murder, rape, robbery, et cetera. Others are designated as antisocial by the legislature: failure to file tax returns, practicing a profession without a license, et cetera.

Lawyers go out and try lawsuits, doctors go out and perform operations, but there is no segregated class of individuals which are criminals who go out and commit crimes. There are exceptions; but I am talking about here in Vermont. The bulk of the people that are brought into the criminal justice system are human beings from a variety of lifestyles that find themselves in a fact pattern that they respond to.

You will find that most homicides are spontaneous and in response to certain stimulation. If you go on down the line to other types of crime, you will find a similar situation. When you are dealing with specific rules of the exclusionary rule, or any other matter, I have to look at what you are really trying to accomplish.

We should set out a goal for such legislation. I think the only long range goal is to minimize the amount of socially unacceptable behavior. This can be done two ways: One, getting people to change their fact patterns, two, allowing greater social tolerance for the individual fact patterns.

If I can use that as a lead in, I will try to respond to your question about the exclusionary rule. I had the advantage of being a prosecutor from 1960 to 1965, and it was during that time that *Mapp* v. *Ohio* changed the rule in Vermont as to the exclusionary rule, so I operated as a prosecutor under both rules. There is no question in my mind that police activity has substantially changed by the adoption of the exclusionary rule.

Prior to that time there was a constant effort to ignore the rights of the defendant. There was very little concern for the rights of the individual that are guaranteed by the bill of rights.

Once the exclusionary rule came into effect, a great deal of attention was paid to it. That is from a practical experience. I am not talking about a philosophical standpoint, but from a practical standpoint.

As far as alternatives, I am not happy when a person with antisocial contacts does not pay for the crime, because of the exclusionary rule. One of the problems has been we have also broadened the base of activities which we define as crime. Hard cases make bad law. I would guess 90-percent of the cases using the exclusionary rule are cases coming out of the drug field. The drug field is a phenomenon which is separate from other criminal activities. I am not suggesting it be totally legalized, but when you are talking about 30 million people using marihuana, and you have a situation where a youngster might be found with a joint and can't be prosecuted because of the exclusionary rule, it is different than when we are talking about a different type of criminal activity, such as a homicide or a robbery.

We have had over a period of time a tremendous number of litigations brought under attack, simply because of the area in which it is applied. One of the remedies is obviously the prosecution of the police or other personalities that come somewhere down the line. The number of prosecutions however for inappropriate police activity are relatively small.

One of the key prosecutions in the history of the use of the exclusionary rule was the Paul Lawrence case, where a policeman's reputation was on the line; and there are perhaps other cases, as well. That prosecution alternative does not seem to be a deterrent. The 1980 Civil Rights Act possibly was a deterrent; however, practically speaking, those instances are covered by insurance, and they have very little practical effect. The exclusionary rule is the only effective remedy in the violation of an individual's rights. This has become more important in terms of indifference to crime.

If we are talking about violating the rights of a class of criminal in the Mafia, you don't get too upset; but when you see that everyone of us here is susceptible to intrusive police search and the violation of our rights as individuals, it is these people you want to protect.

We can have and devise a system for law enforcement and criminal justice. I have some suggestions along those lines. It seems to me you have to weigh the cost of the criminal getting away against whether you want an ordered society and a system of liberty. That is the foremost concern.

Police officers can get search warrants. Most of the cases of exclusionary rule violations are because of incompetence on the part of the police, of not doing their job correctly. Proper adherence to the Bill of Rights can get this evidence before the court. You know, Senator, and our State's attorneys and I know the time and concern in having the police do the thing right.

Senator LEAHY. Let me pursue this a bit further. As Mr. Cook mentioned earlier, the Justice Department is in the process of drafting legislation to severely limit the assumption this can be done statutorily. The exclusionary rule is a court-mandated structure and that the court thus, by statute, can be changed. This legislation will not be acted on in this Congress, but will be up early in the next Congress, next year.

I will be looking at that issue next year in the Senate. The testimony on both sides of the issue is going to be a major part of that record. It will be one of the biggest debates that will go on.

Let me pursue this a bit further. You say the proper procedures should be followed, and that is the way to do it. Does that not also imply that money is going to be spent on training, hiring, and so on, do you feel this is a commitment that should be made at the local or the State level?

Mr. LANGROCK. It means a marshaling and a priority situation. Do we need more police at the level of parking meters or at the level of tax crimes, or at the level of homicides. It seems to me when you start looking at crime that is being committed as a fact, involving a lot of persons, you can start sorting out the priorities.

You and I have had meetings over the years and asked why, with the modest increase in population, with people being basically the same, why there is more crime. There are very little differences in the

average human being. It may be a tolerance or the lack of tolerance in certain types of behavior in bringing into the justice system a low area of "criminal activity" and in the amount of money we spend there. On the one hand you can talk about drunk driving and one selling alcohol, and on the other hand, we try to stop drunk driving and then go about promoting the selling of alcohol.

It seems to me that the problem of given a limited amount of assets, we should redirect our assets to the areas that will really be affected.

I think the criminal justice system has been a failure as a method of controlling human behavior. I think we have been trying to patch up law enforcement. One example, we have always had antilittering laws. We made it stricter, and we called for more police and more enforcement. We had very little success. We passed a 5-cent bottle law, which is something outside of the criminal justice system, and we have a relatively minor problem. Most people don't steal, not because they are afraid of being caught, but because they don't believe in stealing. We have a breakdown in families and in religious institutions. We have to look for other ways.

There are other alternatives to our present system. It seems to me that the legislative course—that the U.S. Senators should take first an evaluation of our criminal justice, and whatever alternatives they are, and of what we are trying to accomplish. Often our criminal justice response is not to the real needs of society, but to the voiced concerns of the citizenry, without understanding the consequences. The judges are under attack because they give out sentences that are too light.

By legislation eliminating from the criminal code—or, at least, downgrading within the code—certain victimless crimes, society would no longer be designating as crimes broad ranges of behavior which by large segments of the population are acceptable. Examples: consenting sexual activity among adults, drug laws, gambling, et cetera.

For some reason legislators think they can pass a law, "Thou shall not, or you will go to jail," and that will have a major effect on people's fact pattern participation. It does not. It may classify as criminal certain conduct which was not so classified, but it does not change the underlying psychological and economic reasons for that conduct in the first place. Thus, most legislation in this field is naive and created out of frustration rather than an analytical review of the underlying fact patterns of what they are trying to deal with.

I am not trying to suggest how a perfect or better society could be created. On the other hand, it would be utterly ridiculous to look at crime as something done by criminals outside of social and economic considerations.

At times I think the criminal justice system is riding the wrong horse and trying to patch it together by calling for longer sentences, less right for the defendant, more police, when it may be that a fresh horse should be tried. I ran across a clipping from Deane Davis' campaign in 1968 which called for the same reforms that our present candidates are calling for: Tougher judges, longer sentences, more jails, et cetera.

For years Vermont tried to stop littering on its highways. First by passing a law, then calling for stricter and stricter penalties with more and more enforcement. Nothing happened. Then, instead of a

"Thou shall not, or go to jail" law, an economic incentive was offered: A 5-cent deposit on bottles and cans. This virtually eliminated litter, not of just bottles and cans, but of other litter as well. People's fact patterns were changed by the use of an economic incentive.

Sweden is experimenting with precatory laws. Parents shouldn't spank their children. These laws are passed without a criminal sanction, in hope of giving leadership in the changing of fact patterns without involving the terribly powerful police powers of the State.

I would like to suggest some possible goals for legislation in this field. First, study, catalog, and inventory all alternatives to our present criminal justice system. Example, the economic incentive of the bottle deposit law.

Second, marshal the priorities of the type of antisocial conduct you wish to deal with. Do we need more police on parking meters, tax frauds, marihuana smokers, or homicide investigations?

Third, analyze the effectiveness of our penal system in light of overall societal goals. I am convinced that much of our penal system, together with its extraordinary expense, merely serves to give lip service to the demands of the public under circumstances where the public doesn't really know the long-range consequences of its demands.

Senator LEAHY. Thank you, Mr. Langrock. Mr. Gray, you have been a State's attorney for 11 years; and at least a third of that time, you and I served together as State's attorneys; and you had time in the public sector of law prior to that as a legal aid attorney, so you have seen it from both sides.

I want to pose generally the same question to you. How much of a practical problem is the exclusionary rule in bringing about successful prosecution? Are there alternatives to it? I say this not as an idle question, but because I do feel the area of criminal law is going to be debated on this very issue.

STATEMENT OF DALE O. GRAY, CALEDONIA COUNTY STATE'S ATTORNEY

Mr. GRAY. Thank you for inviting me here. I recall one of the first official responsibilities on July 2, 1970, was a letter from you, saying if I ever needed any advice to call, and you would be able to help me out. I do have some remarks, but let me respond to your posed question.

Perhaps I am involved in prosecution a little later in time than Mr. Langrock, here, because I have not seen the police involved in any way which could be considered willful violation of the defendant's rights.

I do have a family, own property, and I do feel very strongly about crime, violent crime and all sorts of crime. As a practical matter, in my 12 years as a prosecutor, I have seen few cases where the exclusionary rule has caused me any trouble, once the charges have been filed. I have no idea of the number of cases I have declined because there was a problem. I think it is a fine tool to police prosecutors, as well as policemen, so that they can convey and honor the rights of the individual, however, I would like to see some middle ground where there has been good faith in attempting to honor those rights. I realize it would be a very difficult thing to administer, and it probably would

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cause us to spend a lot of time in court, determining whether an officer was in fact acting in good faith.

When a police officer conducts a search without a warrant, based on a recent Supreme Court decision, and then in the interim, while we are deciding that issue, another Supreme Court case comes along and changes it a little, I think if an officer conducts a search or acts in good faith when conducting a search, that ought to end it; but as a practical matter, I can think of very few cases where the exclusionary rule has cost us a prosecution. I am sure the statistics are not available. I suspect there are very few cases where motions to suppress have been successful. I think when the police and the courts get involved in these issues, we sometimes forget why we are there. The question of innocence or guilt is sort of second place. We spend a lot of time litigating about whether the police did their job, not the person's guilt.

Senator LEAHY. I know that our time is running down, but I want to turn this over to Mr. Gitenstein, if he has some questions on behalf of Senator Biden.

Mr. GITENSTEIN. First of all, I think we will spend a great deal of time on the exclusionary rule. It really is on the agenda for the coming year.

I have several questions of Mr. Langrock and Mr. Gray. Mr. Langrock, you talked about the exclusionary rule as it is primarily directed to the general rule of thumb for the middle criminal; but it is not true that the exclusionary rule is also designed to protect people who are not criminals in the sense they may be innocent and the only remedy is in the sense of a deterrent from that sort of activity.

The kind of case I have in mind was in the early 1970's, there was an infamous drug case, where the agents illegally entered the home of a family in Illinois, and it is often said that the solution to a problem is a simple remedy. Would it not be a mistake in your opinion to appeal on the exclusionary rule, because simple remedies would not settle the problem? The reason I say that, in the federal system, in this case I worked on, I know these people did sue the Federal agents and did not get any recovery. I don't know what the expense would be here in Vermont, but could you give us a quick summary if a State agent violated someone's rights. What would the consequences be or the problems?

Mr. LANGROCK. I think Vermont might be unique in that regard. I think it varies in Vermont. I don't think that really acts as a deterrent, because it does not come out of his pocket. It is covered by insurance, and only the smallest—if a police officer outrageously violates someone's rights and no harm is done, they have no avenue in the court. If there is serious harm done, I think they will respond under section 1982. I don't think that that will be a deterrent to keep the police from going back and violating future rights, because, one, it didn't bring serious damage and secondly, at that point, it is out of their hands and in the hands of the insurance company.

Mr. GITENSTEIN. As a practical matter, it is also expensive. It could cost a man a great deal of money.

Mr. LANGROCK. The courts are somewhat wishy-washy about attorneys' fees in those matters. I think there are a number of the bar who will take those cases. I have argued several of those cases in that regard. I think we do some honest litigation here in Vermont.

Mr. GITENSTEIN. Two questions for Mr. Easton. First, you talked about a 15-percent increase in criminal cases. Is that criminal filings, or is that offenses reported to the police?

Mr. EASTON. This is the increase in the Vermont District Court, the number of cases that are presently before the Vermont District Court. There has been some discussion that this increase has been caused by better police work and more police resources. More prosecution resources have caused that increase, but that is the number of cases in the Vermont District Court.

Mr. GITENSTEIN. Has anyone analyzed what kinds of cases they are.

Mr. EASTON. There has been an analysis to the extent it is accumulated by type of offenses—felonies or misdemeanors—county by county; and so we are able to tell in which counties the increase has been greater.

Mr. GITENSTEIN. Is that because of more prosecution resources?

Mr. EASTON. More police resources, and the analysis is still underway.

Mr. GITENSTEIN. One final question: You talked about the problem of juvenile crime. There has been a great deal of talk in the committee whether to abolish the juvenile justice program, which is approximately $700 million. What impact would that have in Vermont if this program was abolished?

Mr. EASTON. To my way of thinking, the most innovative programs to address the cause of juvenile crime and prevention have been funded by Federal money. I would like to see Federal money, at least in the juvenile area, continue because, without some Federal resources in this area, I don't think we will see the innovative programs in schools and communities, or the assisting families in controlling juveniles and perhaps the causes of and the curing of delinquency. This is one that I would emphasize to be continued.

Senator LEAHY. I would like to ask two questions. One, I will ask you, Mr. Easton; do we really need to have the Federal Government to step into these areas of juvenile delinquency; and I will as of Mr. Cook, without the cutback, if we do expend there, would you even have the manpower to handle that?

Mr. EASTON. With respect to the two bills, I am not as concerned with the Vermont area criminal bill as I am with the victim assistance. As you know, almost two-thirds of our States have some sort of victim compensation, and Vermont does not have such a program.

I believe we can do more for the victims. In doing that, it may well provide a greater respect for the criminal justice system. We can do such, without trading off defendant's rights.

I think you can establish aid and services to the victim without necessarily taking away from the rights of the defendant; so the Federal bills—there are several Federal bills. I am not sure which ones you are talking about. The omnibus victim's bill, I am not sure that one does anything for the State. I mean the omnibus victim's bill that I have seen is essentially setting up a system in the courts for intoxication. I think we need to do more at the State level.

Senator LEAHY. Do we need to have the Federal Government come in to handle what are basically State crimes? Do we need to have the Federal Government handle a matter such as a burglary or what are traditionally State crimes?

Mr. EASTON. We have this ability now in the Vermont statutes, if we feel that is not working, if we feel that the program is not working—we have never had the volume.

Senator LEAHY. You are talking about doing this as a State thing, not as a Federal thing?

Mr. EASTON. We can handle that at the State level. I don't see any need for the Federal involvement in that area.

Senator LEAHY. Mr. Cook?

Mr. COOK. I don't know if I can answer your question. The administration supports aid to victims of crime. That also is a part of the violent crime and drug enforcement bill. I have to assume that if we support it, the manpower will be juggled so that whatever is required will be provided. Again, I am not in a position to answer that completely.

I would, Senator, since my remarks initiated the entire discussion about the exclusionary rule, and so there is no mistake on the record, I'd like to make a clarifying statement. Since I was referring to a bill I have not seen, I want to make certain that the committee knows, that the President's proposal regard revision of the exclusionary rule in the bill that is being drafted is one of the recommendations of the Attorney General's Task Force on Violent Crime, which was headed by former U.S. Attorney General Griffin Bell and Governor James Thompson, of Illinois who was formerly one of our foremost Federal prosecutors. I am sure the exclusionary rule revision is the recommendation of this report, which only touches good-faith efforts of law enforcement officers during search and seizure actions. On the other side of the coin, in 1913, the Supreme Court adopted the exclusionary rule in order to deter violations of constitutional rights; but if you have good-faith efforts, there is no need for deterrent action, and suppression of evidence there would throw out the baby with the bath water, so to speak.

Senator LEAHY. The last question would be for Mr. Langrock and Mr. Gray. In light of the jury decision in the *Hinckley* case, would you make any changes in the sanity defense?

Mr. GRAY. I have been advocating, before the *Hinckley* case, that we ought to abolish the insanity defense as we know it, but have guilty, but insane; let corrections work with those people that are found guilty, but insane. I don't think I could absolve somebody with an insanity defense. I understand the U.S. Attorney General is working on a bill we have been proposing a number of times.

Senator LEAHY. Mr. Langrock, you have some passing remarks?

Mr. LANGROCK. The only problem with that case, the President was involved. We have some proposals right now to change that.

Surprisingly enough, I don't think insanity plays a major role in law. It might be a minor part; I am not really concerned with it as a major factor. The worst thing is to be acquitted by an insanity plea. I don't know specifically how you want me to deal——

Senator LEAHY. Would you change Vermont law?

Mr. LANGROCK. No. It's working now. I have tried insanity defenses, almost always unsuccessfully, unless the guy is really way out. In that case, the medical approach is better. We don't have a real problem. It is not one of the pressing problems of the law. If you put it on a list, it would be minus 15 on a scale of 1 to 100.

Senator LEAHY. We will now recess for about 5 minutes. My thanks to you four. I must admit that I enjoy having hearings outside of Washington. They seem to go far better.

[Statement of Mr. Gray follows:]

PREPARED STATEMENT OF DALE O. GRAY

Let me begin by telling you a little about myself and my perception of the problem of violent crime in rural Vermont.

I have been State's Attorney for Caledonia County since July 1, 1970.

Caledonia County is located in the Northeast Kingdom, has a population of 25,808, covers 619 square miles and is an agricultural, light industry and recreation area.

During the last 12 years I have seen an increase in violent crime in my county and this state.

Before I direct my remarks to some specific areas that I feel the Federal Government can assist us in combatting violent crime in a rural area I would like to preface my remarks with some observations and assumptions.

First violent crime cannot be stopped by law enforcement alone. It is a problem that pervades our society and cannot be solved without change in many social, economic and environmental programs over which law enforcement has no control.

Secondly, violent crime in Vermont and elsewhere is much more random than it once was. As a citizen in this State, or elsewhere, your chance of becoming a victim of a violent crime has increased while the probability that you know the offender has decreased. This randomization has put fear in all of us and has caused us to lock our doors and distrust strangers.

Lastly, unlike urban areas, it is difficult, if not impossible, to identify rural areas where violent crimes are likely to occur so that increased enforcement activity can be taken.

Therefore, law enforcement must be effective in investigation, apprehension and prosecution of violent offenders. While the Federal Government should play an active role in the detection and prosecution of violent crime, the nature of violent crime in rural areas dictates that State and local law enforcement must be the predominant mechanism to combat this type of crime. The Federal Government should provide necessary assistance, supplemental resources, and maintain the manpower capability to assist or assume investigations and/or prosecutions where state and local resources are either limited, exhausted or state jurisdiction has been foreclosed. The following recommendations are made to insure Federal-State cooperation and maximize the resources committed to combatting serious violent crime in rural areas:

1. Further reductions in force in Federal law enforcement agencies should not come at the expense of rural states. During the past 8 months Vermont has lost 1/3 of the Federal DEA agents assigned to Vermont, leaving 2 resident agents to cover a population of 511,456 spread over 9,509 square miles and 246 towns and cities. The ATF's presence in Vermont has been significantly reduced with the withdrawal of resident agents. Coverage is now supplied through ATF offices in Springfield, Mass. Reduction of federal law enforcement personnel place many rural states such as Vermont, in a precarious position. There are neither the trained personnel nor are the resources available to fill the void created by federal reductions. Reductions in force in urban areas may reduce programs, in rural areas similar reductions dictate virtual elimination or withdrawal of a federal presence.

2. There continues to be an unmet critical need to provide both essential and specialized training to State and local law enforcement personnel. "The Attorney General's Task Force on Violent Crime, Final Report," recommended: "The Attorney General should establish, and where necessary seek additional resources for, specialized training programs to allow state and local law enforcement personnel to enhance their ability to combat serious crime". Recommendation 44 "The Attorney General should seek additional resources to allow state and local prosecutors to participate in training programs for prosecutors". Recommendation 55

The loss of LEAA funds, a significant portion of which were dedicated to providing training for criminal justice personnel, has proved a particular hardship for rural areas where the high costs of travel limit the ability to provide

specialized training. While several federal agencies provide training programs to state and local law enforcement, these efforts are far outstripped by the escalating need. The federal government should immediately expand cooperative training programs and subsidize the opening of such training facilities as the Federal Law Enforcement Training Center in Glynco, Ga. to state and local law enforcement. Additionally the Justice Department should initiate a cooperative training program with state and local prosecutors and expand the Attorney General's Advocacy Institute to all state and local prosecutors.

A limited grant program should be initiated to provide funding to subsidize travel expenses which are demonstrably greater for rural law enforcement personnel.

3. The federal government should immediately expand staffing and programs at federal crime labs to provide increased assistance to state and local law enforcement entities. Such expansion should not be limited to increased testing capability available to state and local law enforcement agencies but also should provide for the increased availability of staff personnel to assist in conducting non-federal investigations and training programs at the local level. Closely coupled with this program should be the implementation of a grant program to assist rural areas in upgrading the quality and capabilities of existing crime lab facilities and equipment with particular emphasis on centralized state crime labs.

4. The federal government should provide grants to states which still lack a computerized criminal history and information center. Such a grant program is necessary to insure that accurate and complete criminal history information is available to law enforcement throughout the country. Linked with the completion of modern criminal information centers should be the creation of a decentralized federal criminal history records center maintained by the FBI. This federal center should specialize in maintaining easily accessible records on violent offenders throughout the country. A separate component of this system should maintain records on all offenders who utilized firearms during the commission of an offense.

Senator LEAHY. The next witness will be Chief Agostinho Fernandes, chief of police in Wilmington which is down in the southern part of the State, right on the spine of the Green Mountains, and a very, very pretty area—very pretty ski area. I find it very easy to accept invitations to speak during the ski season.

His law enforcement career began 15 years ago. He was appointed chief for the town of Wilmington, Vt., in July, 1978. He is presently a member of the Law Enforcement Coordinating Committee and chairs the Public Safety Subcommittee.

Another witness will be Karen Bradley, who is the director of the Chittenden County Court Diversion Program. Mrs. Bradley is a police officer in the Burlington Police Department, and is vice chairman of the Vermont Association of Diversion Programs; and I am particularly interested in hearing her testimony, as the diversion program is something that became formal after I left the State's attorney's office, but was begun, in a different form, when I was in the State's attorney's office.

We have Senator Welch in from Windsor County. He is also an attorney, practicing in White River Junction. He is a member of the Vermont State Senate.

I appreciate having all of you here.

STATEMENT OF AGOSTINHO FERNANDES, JR., CHIEF OF POLICE, WILMINGTON

Mr. FERNANDES. Thank you for the publicity. We will certainly invite you to speak this ski season.

Two drug agents purchased a pound of amphetamines in an airport parking lot. When they identified themselves as police, the sus-

pects reached for two firearms—one so new the sales tag was still attached. The suspects were taken into custody without incident or injury to any innocent bystanders. (*State* vs. *Scofield, Chittenden County; United States* vs. *Ronald Rich*).

A plane lands at a public airport and several hundred pounds of marijuana are offloaded and distributed. This shipment originated in Colombia and is just one of many shipments made by a multiton smuggling enterprise (*U.S.* v. *Novak et al; State* v. *Ellison*).

Two armed men burst into a house and tie a third man up and steal from him guns, cash and quantities of drugs. This crime went unreported to any authorities until one of the perpetrators is threatened at gunpoint at which time the police were made aware of the incident. This is one of the many violent crimes which occur in the drug community (*State* v. *Ellison; U.S.* v. *Novak* et al).

The three scenarios sound like something from a TV program or something which you would read about in Miami or New York newspapers, but in fact these are actual occurrences in the State of Vermont—occurrences that take place on a daily basis. These were some that the law enforcement agencies in the State were fortunate enough to be aware of.

It is incidents like these that keep Vermont in the limelight of drug activities in the northeast. Vermont has always been a corridor for the distribution of illegal substances; during the prohibition era alcohol was smuggled in abundance from Canada through various routes into the United States via the Vermont boundary.

Today Vermont is still very much a part of the smuggling of drugs and other contraband into the United States. During the 1800's Vermont was a vital part of the underground railroad secretly moving slaves from the South to safety and freedom in the North. Today the new underground uses Vermont to hide and move fugitives so that their subversive activities may continue.

So often we ask ourselves an others in our profession—why Vermont? Is it our vast remote areas that bring in drug enterprises and criminal activity? Is it our lack of resources and sophistication in the law enforcement community? Is it the liberal attitude of the Vermont courts? Or in fact is it the combination of all of those?

As we think about these, we cannot argue that the geography of Vermont is certainly conducive to the clandestine operations which are associated with the drug problem in the country. The corridor from Canada, the availability of "stash houses" and the access to the population centers make Vermont an excellent distribution point for the Northeast.

It is also this same geography which allows Vermont to be a safe house for fugitives from all over the country.

As we look at the theory that perhaps Vermont is a target because of the lack of law enforcement resources, we can easily see that the resources to combat criminal activity in Vermont are minimal and the present availability to new resources is lesser than a decade ago. When LEAA funding was available and abundant, Vermont failed to take full advantage of those funds for law enforcement to fight criminal enterprise. When that funding was available to establish a drug or narcotics task force, as so many other States and cities had done with great success, the Vermont law enforcement agencies could not agree

on a concept although a concept was conceived and promoted by the Vermont Governor's Commission on the Administration of Justice. This disagreement and inability to communicate led to the demise of a Vermont task force. As the availability of funding became more competitive, Vermont again fell short sometimes because of lack of population, sometimes lack of criminal activity.

In my 12 years in law enforcement in the State of Vermont, I have seen very few changes which are beneficial to combating crime. As a matter of fact, I have seen changes in Vermont that are a detriment.

I feel that Vermont is getting ready to face a crisis in law enforcement due to the lack of resources and support services which are available. Support services from Federal law enforcement agencies in Vermont is at a new low. The Bureau of Alcohol, Tobacco and Firearms no longer has agents in the State of Vermont and that Bureau has an uncertain future as a law enforcement agency. In a State where there is an absence of firearms laws, it is crucial to have the support of ATF.

The realinement of Federal agencies has caused ATF to concentrate its efforts in urban areas and to work in areas with high arson incidents. ATF has traditionally been one of the most cooperative Federal law enforcement agencies in Vermont and even with their limited manpower is still one of the most supportive Federal agencies.

We look at the Drug Enforcement Agency in Vermont which has recently been cut back to two special agents for the State—this is a reduction in manpower which has no relationship to the increased drug activity in Vermont at present. The Drug Enforcement Agency, an agency which I have had the pleasure of working with on numerous occasions, is again a most cooperative Federal law enforcement agency in Vermont.

With the concentrated efforts of the Government in our Southern States we are starting to see a new trend in drug trafficking, that being the smuggling into the Northeast along the New England seacoast and remote areas of Vermont.

It seems that the Federal Government is realining law enforcement manpower and resources to the urban areas of the United States—areas that certainly have a greater number of problems, but areas which have a network of resources of their own, resources that law enforcement in Vermont can only dream about.

What I personally and professionally fear is that the loss of Federal law enforcement support will nurture the growth of organized criminal activities—activities which Vermont rural law enforcement is unequipped to combat. We lack the sophistication of forensic laboraties, computerized information systems and only now are embarking on a uniform reporting system. It is hard to for one to grasp the fact that in these times of increased crime and demands for public safety, that the majority of Vermont law enforcement is funded and manned for only part-time services.

During my career in Vermont, I have watched the deterioration of drug enforcement due to many factors, some of which are the lack of funding and the lack of aggressive prosecution in the field of narcotics. If it was not for the excellent cooperation of the U.S. Attorney's Office

and the availability and access to the Federal grand jury system, the drug enforcement on the State and local levels would be nil.

Presently Vermont law enforcement lacks many of the legal tools needed to fight large-scale drug enterprises. The most important is the absence of a wiretap and surveillance law which would allow the legal gathering of intelligence information at a minimal expense to the Government.

The Vermont Rules of Criminal Procedure which allows for liberal discovery of the State's case by the defendant makes it very difficult to conduct investigations into illicit activities and certainly limits the cooperation of informants which are essential to combat drug and organized crime activities.

What one must realize is that New England has not yet felt the effects of the corrupt drug society. We see what an affluent drug society has done to Miami, the Florida Keys and Dade County areas. We hope that Vermont's way of life will not become contaminated by those large scale drug enterprises.

We hope that the Federal Government will reassess its feelings toward the realignment of manpower and give the rural law enforcement of New England the necessary manpower and support services so that we will be prepared to provide proper investigative and public safety services for our communities.

Mr. LEAHY. Thank you, very much. You jog my memory when you talk about the arrest at the airport. I recall that case, very well. It was a little warmer than it is today. I think both you and I have reason to recall it. It was well done. I think it was some of the best law enforcement action that I have seen. It was extremely well done.

Mrs. Bradley, let's go with you next.

STATEMENT OF KAREN BEAULIEU BRADLEY, DIRECTOR, CHITTENDEN COUNTY COURT DIVERSION

Mrs. BRADLEY. It is a pleasure to discuss the court diversion program, especially since it was formed around 1974, under your administration. It wasn't until Federal dollars became available that it became a formal program. If I may, I would like to discuss what I think is an alternative that is actually working.

The Vermont Court Diversion Program is an alternative to the formal court process for first offenders. It is a statewide program, sponsored by the Attorney General's office and the juvenile component of the program is funded by the State of Vermont. Recently court diversion has expanded and adult diversion is now being offered in five counties.

To be eligible for court diversion, an individual must be a first offender, have no prior convictions or adjudications and must be willing to accept full responsibility for their illegal actions.

Once referred to the program by the State's Attorney the offender appears before a review board of citizens who listen to the victim's side of the story, hear the offender's explanation and then vote to accept or reject them for diversion.

If accepted, the review board designs a contract that consists of a face-to-face apology to the victim, restitution for property or dam-

ages, and community volunteer work. Contracts may also consist of drug or alcohol counseling, obtainment of educational goals or job searches. Upon successful completion of the contract the State's attorney is notified and all charges are dismissed. If the contract is not completed or the participant leaves the program, the case is returned to the State's attorney for prosecution.

Court diversion is successful because it is speedy, the average case is completed within 30 days, it is cost-effective, the average case costs $250, and it holds the offender responsible for their illegal actions. To this date over $87,000 in restitution has been returned to victims of crime and we have maintained a low recidivism rate of 8 percent over the past 3 years.

What is rural crime? The court diversion population tells us that 50 percent of the first offenders commit their crimes under the influence of drugs or alcohol. Economic status has no bearing, the very rich are committing crimes as well as the middle class and poor. Children are committing crimes at a younger age and the number of senior citizens being accepted into the program is on the rise.

If we are to have any impact upon crime, rural or urban, we must concentrate our efforts on the prevention of crime.

If shoplifting is the No. 1 crime of the first offender population and it cost the State of Vermont $40 million in 1980 as a result of shoplifting, we must put our money into preventing this crime.

If an American home is burglarized every 13 seconds and we know that neighborhood crime watch programs decrease burglaries by 20 percent to 90 percent, it is time that we support these locally controlled programs.

If our local crime stoppers program actually increases the rate of apprehension and returns property to victims, we cannot allow this program to cease for lack of funds.

We must continue to seek alternatives such as court diversion that are locally controlled, responsive to both victims as well as offenders and that are proven to be cost-effective. It makes much more sense to spend $250 when a person first commits a crime rather than $25,000 to later incarcerate them.

The criminal justice system is overburdened and our jails are overcrowded. We cannot expect law enforcement and the courts to solve our problems alone. It must be an integrated effort by the total community to attack crime with prevention programs and early intervention, that teaches responsibility and accountability for illegal actions.

Senator LEAHY. You would not agree with the administration's cuts in the juvenile justice area?

Mrs. BRADLEY. No, I do not.

Senator LEAHY. Thank you and now, Senator Welch. You have the ability to look at the practicing attorneys on the other side of the State, and also, not only one who has got to vote on it, but you help to write the laws that we Vermonters will use. This unique perspective you have on the legislation I suspect will be watched very closely by the other members of the committee.

Mr. Welch, would you continue?

STATEMENT OF PETER WELCH, STATE SENATOR, WINDSOR COUNTY ATTORNEY, WHITE RIVER JUNCTION

Mr. WELCH. I join with the other panelists in thanking you and the other members of the Judiciary Committee for hearing our views and comments.

I think there is a joint agreement of those present that people who commit crimes should be prosecuted appropriately, but that is where the agreement apparently ends.

I would like to comment briefly on two bills that are pending before the Judiciary Committee in the Senate. One is S. 1688; now, this bill, is titled "Career Criminal Act of 1982." What it says is that if an individual commits a third armed robbery, that person will be subject to Federal prosecution as well as State prosecution. It is a customary get tough bill, and this would impose a 15-year mandatory sentence for all convicted.

The second bill is one called a Witness Protection bill. Among the provisions of this bill is the approach that if a witness is harassed in any fashion, it is a Federal offense as well as a State offense. The approach basically is, that by federalizing criminal prosecution, you are going to help in solving the crime problem.

The first bill seems to explicitly say that the Federal authorities are telling us something that we don't know, basically, that a person who for the third time commits an armed robbery is not a friend of peace-loving people everywhere. Likewise, the Witness Protection bill.

I think in rural States we have figured out it goes to the heart of the criminal justice process when a witness or a child is intimidated by a criminal.

I oppose these bills insofar as they adopt a view that by federalizing criminal offenses, this in some way is going to reduce the crime problem. It plainly isn't going to.

If you have Federal prosecutions in this area, you are going to shift the accountability and responsibility away from the local community and the local prosecutor, who has to be reelected and is the subject of local scrutiny. In fact it might impede local parole efforts.

These bills were described to me as being moderate. I haven't seen a number of other bills that are pending before the Judiciary Committee. I would like to find out what they are. I would agree they are moderate bills. I think they are moderately irrelevant and moderately ineffective and moderately stupid. I don't see this as a sensible direction for the Government to take.

We have diminished the Federal role in a number of progams, and it would be ironic to increase Federal intervention in an area that traditionally has been an area of State and local control. We ought to keep it that way.

Now, what can Federal Government do? I think Federal Government can help in a number of ways in law enforcement. One, there are a number of topics where there is great confusion and lack of concensus of what the criminal law should be doing. You discussed this morning the insanity defense and the exclusionary rule. All States are subject to Federal prosecution, because of the due process clause with respect to these two particular issues.

Federal Government, I think, can be quite helpful in trying to fashion some sense out of those criminal justice areas that affect every State in every jurisdiction. The Federal Government has the resources. In fact, it has the ability to look at the common experiences of 50 States to try to come up to a sensible approach in making reforms in the criminal justice system throughout the country.

Second, in the area of resources and training, again, the Federal Government is in a unique position to provide training standards for law enforcement officers and some training standards for correctional officers and probation officers.

It also has a great opportunity, I think, to provide resources for prosecutors and other people involved in the criminal justice area. When you have a judge and a prosecutor, and each time you have to have a new one, it is as though they have to reinvent the wheel going through the various steps of learning everything in the criminal justice process. A training bank could be available to all attorneys.

Also, I think the Federal Government should definitely be supporting such programs as the diversion program, programs that have a community basis, a community focus and work dependent on the commitment of the local community to be actively involved. The diversion program is one example and has been enormously successful in Vermont. Mrs. Bradley spoke of it, but we have had great success down in Windsor County as well.

Windsor County partners is a program in my community which has also been successful. It matches up adults who are willing to work on a one-to-one basis with a juvenile who may or may not have been in trouble or he needs help.

The crime stopper's program has also been a good community based program.

The reason why the community based programs are worthy of continuing support is because of the early stages in preventing crime. If you live in a society or in a community where you just don't steal, you don't have that many thieves. If you live in a society where parents are gentle to their children, you don't have that many angry children. These values have to be reinforced on a day-to-day, step-by-step basis, not at the end of the line by some Judge.

The final area where I think the Federal Government can be extremely helpful is in reviving the economy. We haven't talked at all yet about the economy as it relates to crime. That is what frequently is a problem in discussing criminal justice issues. You can't isolate the causes of crime or how you prevent it by simply distracting the criminal law problems, serious as they may be, from the society from which they occur.

Study after study after study demonstrates conclusively that crime goes down as employment goes up. A random study recently showed that people who were working three-quarters of the time and earning as little as $100 a week were one-quarter as likely to commit an offense as people who were employed or making less than $100 a week. That really says something. It pays to have a job. People are not as likely to commit crimes. The Federal Government really has a responsibility here, and I think—I don't know if I am alone in this—I really wonder what is going on down there.

One year ago, you had the biggest tax cut in history passed; then this year, you have the biggest tax increase passed, which included some cuts in social services like social security and medicaid. This year the tax increase is one of the biggest in history; and those two victories that are occurring without much fanfare are not from the President. Congress is passing the largest defense increase in the history of the world. This affects the priorities that communities can meet.

That affects the ability of the city of Burlington or a county like Windsor to allocate resources to community activities, because we have to pay for whatever the Government appropriates in whatever system; and it limits the capacities of local communities to meet their local needs.

I just looked at a few of the items in this defense package. I was really astonished when I looked at it. You can buy one 1½ AH helicopters—that equals the amount of State appropriations for State aid of $41 million; or you can buy one-half of a bomber, and if the Government would give us the same amount, we could wipe out Vermont's increased taxes last year.

I would like Congress to give us fewer admirals and more police officers on the street, fewer generals and more and better paid teachers to teach in our schools. There is a responsibility to revive the economy, and I think we need leadership from Washington; and I think that plays a major role in the quality of life issues.

Thank you.

Senator LEAHY. Thank you, very much, Senator Welch. I must say that as to some of the questions you raised about the two major tax victories, there were at least a couple people who raised similar questions on the floor of the Senate this past week, and not those who would fall into a predictable partisan pattern. I believe it included such Senators as Senator Goldwater, Senator Moynihan, and Senator Helms. The issues were raised for perhaps different reasons. You make a point that is not made enough when we talk about crime. It is a point on which I think all of us would agree, that crime simply does not stop just by passing laws.

If we could stop crime by passing a law, there would be no more crime. There is no legislative body that would do otherwise. Crime doesn't stop simply by changing the penalties, and crime doesn't stop slowly by adding or decreasing the number of law enforcement officers all by itself.

The effect of the company and the effect of education, these do have an effect. The ability for law enforcement agencies to maintain themselves current with the laws and with changes in police procedures also is important. So many of these things, again, as I stated at the outset, are measured from an urban perspective.

Over and over again I go to hearings in Washington, and we are told by the witnesses how this would affect an urban area and how it would affect a population of 2 and 3 million, and never do I hear of what it does do to a town or a city of 1,000, 5,000, or 50,000 people, or the smaller cities and towns in America.

What does it do here? We also do not have anywhere often enough people from rural America coming down to Washington and saying: "Listen, you have a responsibility to make things work," whether it is

the economy, the environment, the criminal justice system, or anything else.

It is good that each one of the witnesses so far, in one way or the other, have gotten that message back. If I had my way, at least 80 percent of the hearings would be held outside of Washington, instead of always being held in Washington.

Chief Fernandes, I would like to ask you a question. At that time I called you, it was said you were at a training seminar in New York, and I think Ben Scotch reached you there. It is obvious, the fact that you were there answers one of my questions. You do receive training essential to your own job.

Let me ask you two basic questions? Are there enough resources devoted to law enforcement training? And are there enough resources devoted to the problems of law enforcement in rural areas?

Mr. FERNANDES. Training resources is an interesting thing. I believe you have strength in knowledge, which you are going to get if you have training.

The course I went through was a course in police discretion and working ethics, and the use of any of the anatomies.

The training resources we have in Vermont are minimal. As you know there is a facility where we train our law enforcement people, rather than train them at local motels and ski areas. I was fortunate to be one of the recruits through that; and after trying to convert it somewhat into a training facility or educational facility, we now have it, and we are asking you to help us and give us what we need.

Give us the education so that when we go out, we will understand the rules when it comes to search and seizure, and so forth.

The academy at one time was almost dismantled and we fought for it and saved it. When the State noticed it was a viable facility, we were also generally pleased with the therapy they showed to us in the juvenile corrections area. I don't know why they didn't put it in the educational facility. They selected the training facility, and the therapy there was that the police could interrelate with the juvenile in the therapy center. We do that every day, and if a juvenile gets to a degree of detention, I don't think he wants to interrelate with the policeman that put him there.

The resources are limited in the training in the aspect that we don't have the money that other facilities have. A prime example is when we stay at the police academy compared to when I was in New York State. The New York State Academy was built by the Rockefellers and has the fine taste of the Governor in the facility. We lack many of those resources. The Federal Government could help us there.

Recently, there was an education section put on by the U.S. Marshal's service, and the U.S. attorney, and the LECC. That is one of the aspects we are looking at. There are resources there.

When we look at the resources for law enforcement, one of the things is that rural law enforcement is a strange piece. When I worked in a New York City precinct and worked with those detectives, it was very easy to see how a division regresses where there are so many people. When they come up to a rural area, they cannot comprehend rural law enforcement. It is a unique peace. How great it is to be in Vermont as a law enforcement officer. You would never want to work in an urban area. Vermont is ideal. They say, "You guys have it made."

That is true. I have it made when I stop a car at 3 o'clock in the morning and my nearest backup is 40 miles away.

Senator LEAHY. And it is snowing.

Mr. FERNANDES. My nearest backup may be in bed sleeping. In New York City, when a police officer needs help, you have battalions of police responding. Everything is so related to our population. That is a mistake. As all of the law enforcement people here know, we have been taken apart in studies in Montpelier. All those studies quote reasons for holding onto our chiefs, but no one has investigated in those studies to figure out why we work; and the sad thing is, they always put us on the back of the stove indefinitely. Eventually we go back to the way we were working.

We are looking for resources. We are finally getting uniform reporting statewide of all the material of law enforcement.

Mr. Easton stated his figures were taken from State police figures. I can't give you the law enforcement figures for the municipalities, because we don't have that uniform standard, and we are going to embark on that.

I think that sometimes the understanding of rural law enforcement, especially in Vermont, is misunderstood, and the resources we are, at least, entitled to, are not given to us, for example, the Federal enforcement in our region as of now.

Senator LEAHY. I have made a note that you are talking about some underlying things that should be set apart for the other people on the Senate Judiciary Committee. There is a difference, and when you go from one to the other, you do see a difference.

Again, it is awfully hard to get that point across. There seems to be in Washington this bucolic view of rural America as based on something on the Saturday Evening Post by Norman Rockwell, and it ain't so, as we all know. I have a very difficult time getting that across.

I remember one time, when I was chairman of the Rural Development Subcommittee, and another committeeman who handled rural programs came to testify for the Federal Government. In the course of conversation, he asked where I lived during the session in the Washington area. I said that we had a place in McLean. He said, "You must like it there; it's very rural." He is heading up the Federal rural program, and the county has far more people than the State of Vermont. It has twice as many people as the State of Wyoming, and this was his conception of rural.

Mr. Welch, how would you compare the legislative roles of the Congress and the State role in combating crime?

Mr. WELCH. In the area of common law crime, I would say the Federal Government should leave it to the States. Perhaps in robberies, burglaries, and drug trafficking, the Federal Government obviously has its own criminal code and prosecutes Federal offenses, and it is obviously, too, within your responsibility to legislate in those areas.

The major area offhand is the type of criminal procedures. The rules of evidence of insanity, and the exclusionary rule are two hot topics. There is a lot in common between Federal and State law, but it doesn't make any sense to me at all for the Federal Government to federalize common law crime.

The State of Vermont does not need to be told that a third-time armed robber ought to be in jail. I think the people can figure that out.

Senator LEAHY. You think prosecutors may take note that the third-time robber ought to be in jail, and the local police chiefs are going to be angry enough to do so without calling in the feds?

Mr. WELCH. The law is a good example of how something gets drafted, and it appears from my reading it to have nothing other than a PR value to it. Everyone agrees that a third-offense robber ought to be jailed, but that is not going to change things in Vermont. Maybe it is good for Dodge City where they are not doing the prosecution.

Senator LEAHY. What worries me is what happens if indeed we say we don't really need to go after the Federal Government and we set sentences accordingly, and then with the first big budget cut, we are left with nothing.

Mrs. Bradley, you have heard what Senator Welch said on the economic points, that rural poverty and joblessness is one of the causes of crime. There is no question that crime increases in hard times. Can a program like yours really work in the times of high unemployment, when people cannot find jobs?

Mrs. BRADLEY. Yes; I believe it can. One of the aspects is that it utilizes local community spirit to find jobs, odd jobs oftentimes, so that the defender can make restitution.

I think the Federal Government must make sure that the old CETA programs are not totally cut for our children as well.

These programs address issues of how to apply for a job and how to fill out a job application, the skills you need to get a place of employment; and our juveniles as well as adults must be provided these opportunities to learn these skills.

Senator LEAHY. Mark, do you have any questions?

Mr. GITENSTEIN. On behalf of Senator Biden, we have spent a lot of time in the Federal agencies involving the drug battle. We have been questioning the Reagan administration on a number of issues. One concern that has been reflected in the testimony the last couple of weeks is the fact that if you put this tremendous effort in Florida and you don't dwell with the source of marihuana, such as Colombia, the marihuana will still come in and land in rural areas, not only in Florida, but up along the New England coast. Do you anticipate that here in Vermont?

Mr. FERNANDES. We figure that to be the case. Recently, there was a shipment that was taken off the New England coast which was multitons, which was the largest seizure in New England. It is obvious there is a realinement. The Miami area has been saturated by the efforts, and these people are now coming up North.

We were recently working on a case where the Maine coast was the dropoff area. The bulk of that drug is coming into New England, and a lot of it comes into Vermont. As far as the Vermont caseload and the apprehension of the companion who is actually prosecuted in a plea bargain, he is incarcerated in our jails. What people ought to realize is being arrested can increase drug costs. I am surprised they don't put it on their income taxes as a casualty loss.

Senator LEAHY. Maybe they don't pay taxes.

Mr. FERNANDES. We have always said if we don't get the drug dealer, then we have to call the IRS. It is a business, and there are calculated losses. Losses in routing is just like anybody else routing any other product. They say we are taking too much of a loss routing our product through the south, so we are going to the north.

Vermont is virtually unprepared for what might hit them. There are many rural airports. As a matter of fact, there is one airport that we used to know about the night flights.

Here is another thing. The honest citizen hasn't felt the effect of the drug money yet. I am talking about the lobster fisherman who is working in the waters for whatever he is making and then has someone come up to him and say, "Take your boat up and bring in those bales, and I will give you ten thousand dollars for one trip." That man is certainly going to think about it, and that is exactly what has happened.

Senator LEAHY. I would like to review just a moment. I would like to mention a couple things. One is, every single person we have contacted in Vermont has been very, very helpful—every single person, whether police officer, a private citizen or legislator, or anything else. Everyone contacted has been extremely helpful.

I think this hearing has been one of the best that I have attended as a member of the Senate Judiciary Committee and certainly the best field hearing I have been to.

I also want to thank Ben Scotch, who is on loan to our office from the Vermont Attorney General; but especially I want to thank Earl McLaughlin, a former chief of Chittenden County and a former U.S. marshal, who has been working throughout the spring and summer going around talking to just about every police chief and law enforcement people around the State. That has been very helpful to me.

It has also been a pleasure, too. I enjoyed the 9 years I spent in law enforcement. My wife didn't always say that at 3 o'clock in the morning, when I had to get out of bed to go to something, but I enjoyed it very much, and it brings back good memories.

We will recess now until this afternoon. The record is going to be kept open for 7 days. If anyone wants to add to or make comments, they can do it.

[Hearing recessed at 12 noon.]

Senator LEAHY. We will begin; and the panelists are Judge Ronald Kilburn, Denise Rose, Sheriff William Graham, and Chief Hoyt.

I should note for the record on the background of each person here. Judge Kilburn is a judge in the Vermont District Court. He has total jurisdiction of capital and life imprisonment crimes, which used to be only in the superior courts. Judge Kilburn is a former State's attorney. He and I served as State's attorneys together, until he left for the higher calling of the Air Force.

He is former president of the Vermont State's Attorneys Association; he is presently presiding judge in Hyde Park, and next month he will be assigned down here.

Denise Rose is a former VISTA volunteer, worked in Chittenden County, and has taken the master's program at St. Michael's College, and has worked with the women's rape crisis center.

Sheriff William Graham is a former State trooper and probation patrol officer. He has been sheriff since 1969, and has been president of

the Vermont Sheriff's Association, and again, it is beginning to feel like old home week, because Sheriff Graham was one of the sheriffs I worked with when I was State's attorney.

Then, to really come home, we have Chief Douglas Hoyt of the Montpelier Police Department. He went to the same high school I did. He has been with the Montpelier Police Department since 1971, and has been chief since 1980.

Judge Kilburn, I am delighted to see you here. Would you like to begin?

STATEMENT OF RONALD KILBURN, JUDGE, VERMONT DISTRICT COURT

Judge KILBURN. Senator and members of the Senate Judiciary Staff, and my fellow panelists, as one country lawyer to another, I would like for you to consider the natural resources of Vermont in your efforts to find solutions to everybody's problem of crime and delinquency.

In my remarks, I must caution you that I don't speak for the Vermont Supreme Court and the court administrative officers or even my fellow judges. There are many judges in the Vermont system who have more experience than I, are more learned scholars than I, and indeed more articulate than I am.

My assigned topic is criminal justice in the court system and its appraisal, and thankfully, the assigned topic does not refer to a criminal justice system, for indeed, I feel there is no such system.

There is a criminal justice system as an ideal for the treating of people, and there is a court system alive and well in Vermont and is in pursuit of that dream of just desserts for those who violate our laws. There is no protection for those who have not violated our laws, but have been accused of doing so.

My remarks will be less legal and more personal, less lengthy and more to the point. I can be more specific if I am asked to be later on, but I came here to learn today, rather than expound.

Those who preceded me today have had much to say on my topic. Consequently, I had to spend my lunch hour revitalizing and revamping my remarks. I did not want to be repetitious.

It was refreshing for me to hear people say let us solve our own problems, because in a sense we are responsible for our own social ills; but don't think a tougher law or the influx of Federal funds will solve the problem for us.

I am a Vermonter, and I miss what was once the cornerstone, the healthy existence of the concept of the family in general, and that of the farm family in particular.

The farms are fast disappearing, and with that there is the development of new ideas of hard work.

I want to comment on the remarks presented here on the attempt to eliminate funding in the areas like juvenile justice. That is a terrible place to start, and it signals to the State that the professionals do not reach out to the troubled young before their career begins.

This struck a responsive chord with me, and knowing my wife as you do, I am sure you understand it struck a responsive chord with her. We are as interested as any in providing training and skills to police, to prosecutors, and to judges, and well that we should be; but would it

not be more appropriate to fund teachers to teach skills in our secondary schools. Throughout the day, you have heard the testimony on the importance of prevention, and I believe that prevention begins at home, in the formative years, when children are developing a concept of self; and they learn how to deal with such things as emotions of fear, disapproval, anger and resentment, and sexual, to name but a few. Most of the people I see in court have problems in these areas. They have difficulty in recognizing the importance of self and each other.

They don't know how to experience dealing with emotions or concentrating on the written word, or the written context or spoken words. How can we as responsible citizens expect them to respect laws and one another when the television and the movie down the street provides such violence for those individual's imaginations.

If you rob, you may get caught or shot by a cop; or you may get away, if you develop your driving skills. We say, you behave, Johnny, or I will tell that policeman over there, and he will arrest you and put you in jail. Every kid learns that at an early age, and they grow up not trusting adults and not trusting policemen, and yet we expect them to respect our instructions.

Now, the White House coverage on families a little while ago brought many Americans together from all walks of life in developing a key to existence today and tomorrow. I say, and this is just Ronald Kilburn speaking, let us stop devoting our resources to becoming a developing nation and do something at home, which is meaningful, to fix our own economics so people can work and gain their own self-respect. Let's stop passing the buck to the police, to prosecutors, to courts, to legislators and corrections to solve everyone's problems.

It is a responsibility of each and every one of us to help each other and open ourselves. People are people, and people can change. People can agree and solve the problems if they care to get involved; and I guess that is my theme.

Senator LEAHY. Thank you, very much, Judge. Mrs. Rose, we will have your testimony, and also, certainly feel free to comment on anything anyone else has said, either in agreement or in disagreement.

I should also emphasize that you all will be given copies of their testimony. You can add anything further after you leave if you wish. If you are like me, you get home and think of one other thing you might have said, and we will keep the record open for that.

STATEMENT OF DENISE ROSE, RAPE CRISIS CENTER, BURLINGTON

Mrs. ROSE. Thank you.

My name is Denise Rose. I work with the Women's Rape Crisis Center in Burlington, as a crisis intervention worker. I am here today to address the problems I've seen victims of crime face, particularly sexual assault victims, when they become enmeshed in the criminal justice system.

The criminal justice system is the key response to redressing the wrong done to the victim and the community as a whole. Yet the criminal justice system as a whole has had little success in this area. The experiences of victims within the criminal justice system are fairly universal, victims of crime become victims of the criminal justice

system. This victimizaton by the system is in the extreme when the person is a victim of sexual assault.

Sexual assault is a complete attack on a person. It traumatizes the person physically, psychologically, and socially. Physically the victim endures the possibility of being beaten, maimed, or killed. Psychologically the victim is subjected to severe trauma identified as a rape trauma syndrome. This psychological crisis may take months to recover from, and in many cases recovery will not begin to happen in any meaningful way until the prosecution of the case is over. Socially the victim is stigmatized as a victim of rape. The stigma implies the victim either complied with the assailant or provoked the assailant into attacking and thus got what she or he deserved.

The Federal Bureau of Investigation indicates that sexual assault is one of the fastest growing crimes in the United States. In 1977, 57 out of every 100,000 adult women in the United States were reported victims of sexual assault. Sexual assault is one of the most underreported crimes with anywhere from 80 to 95 percent going unreported. In 1977 only half of all reported sexual assaults resulted in an arrest. Of those arrested only 65 percent were prosecuted, 40 percent of that number were dismissed or acquitted, and 13 percent of those were found guilty of a lesser crime.

The first contact the victim will have with the criminal justice system will be the police department. The quality of that contact will probably determine whether or not the victim will continue to cooperate with the investigation. Yet the police are often hindered in treating victims sensitively by the prevailing conceptions concerning crime, lack of training and limited funds. These factors along with the difficulty in obtaining hard physical evidence cause assault cases to be given low-investigation priority. This low priority is highlighted by a call from a victim to the rape hotline. The victim had filed a sexual assault complaint a month before calling, she had called the police a number of times but could not find out how the investigation was proceeding, indeed she had been told not to call, that she would be informed if anything came up. She called the hotline because she was distraught and was considering withdrawing her complaint because the lack of communication and the perceived indifference of the police to her plight was causing her more stress and prolonging the crisis of the crime itself.

If a victim does not withdraw her complaint and it does make it as far as the prosecutors, she will be subjected to even more stress. Prosecutors work independently of the police and medical establishment and the victim will have to repeat her story again. The victim will be subjected to the same stigmatization that has plagued her throughout the investigation. In addition to telling her story to prosecutors she will be deposed by the defendant's attorney at which time she may be subjected to harassing questions about her life style and relationships with other people. This has in fact happened. In one case the victim was questioned minutely about her personal life, and the defendant threatened to tell her parents about the case and harassed her friends. When the victim got to court it appeared that she was the one on trial.

There is an overall lack of awareness as to the process of victimization, anyone can become a victim of crime, yet we as a society treat the victim as the guilty party. Within the criminal justice system

there appears to be a lack of support for and communicaion with victims of crime.

The criminal justice process can be a long drawn out affair often taking up to 1 year before the case ever makes it to court. During this time the victim is often left in the dark as to the progress of the case, is uninformed as to the legal manuverings of the defense such as continuances. The victim often must incure heavy expenses such as physical exams which may cost in the neighborhood of $100, psychological counseling and lost work time to go to the prosecutor's office or to court. Considering the humiliation of the victim the cost and time involved in bringing a case through the criminal justice system it is often too heavy a price to pay by the victim for seeing justice done.

While considering the above mentioned issues, I would like to encourage the Senate to: One, encourage the States to establish a victim advocate unit, with specially trained personnel, within local police departments or State attorney's offices, through a Federal incentive program; two, to establish a victim reimbursement program for medical and psychological expenses, as well as compensation for lost work time. This program may be funded in a number of ways: (a) through a fund which uses money generated through restitution payments, (b) through insurance companies or; three, through employers. Reimbursement should also cover property taken for evidence; and four, to encourage the States to speed up the legal process through such incentives as funding, on a matching basis, of State crime laboratories, which often cause a case to be prolonged.

The court system should prepare and distribute victim handbooks which explain the criminal justice system and procedures.

The States should be encouraged to provide specialized training for law enforcement officers and prosecutors in dealing with victims of crime, through Federal incentive programs.

The States should be encouraged to set up a system of victim notification, to cover such areas as pretrial bail release, court dates, and the release and progress of rehabilitation of convicted assailants.

Further I would like to encourage the Senate to pass the Omnibus Victims Protection Act of 1982.

In conclusion: Bear in mind that victims do not choose to be victimized, it could happen to anyone and any improvements we make in the criminal justice system will benefit individual victims as well as society as a whole.

Thank you for the opportunity to testify at this hearing.

Senator LEAHY. Thank you, Mrs. Rose; and thank you for taking the time to testify here. Mr. Graham, would you continue?

STATEMENT OF WILLIAM GRAHAM, SHERIFF, WINDHAM COUNTY

Mr. GRAHAM. Thank you very much.

Traditionally citizens of the State of Vermont and visitors think of our State as a place of peace and tranquility. They see green hills, pretty leaves, and the fluffy snow and think of it as somewhat of a wonderland at times.

Many people have moved to Vermont thinking it is the "promised land" free from violence and crime. These people and those of us that have been here for a while are slowly becoming disenchanted with

the peace, tranquility, safety, and security that they have come to expect in our rural areas.

The mobility of our society has made virtually each and every nook and cranny in our rural Vermont accessible to everyone. In southern Vermont, and I am sure throughout the State, we are being invaded by groups from urban areas like Hartford, Conn., and Springfield, Mass., that prowl the back woods and rural areas to break into both occupied and seasonal dwellings.

Years ago when someone had a summer place, they did not leave things of great value in it; however, it is not uncommon today in the State of Vermont for a second home to have as many valuables in it as you may have in your primary residence. We are experiencing tremendous losses from breaking and entering, where not just knick-knacks are taken, but expensive antiques and furnishings.

Just a few short years ago, people in Vermont, especially in the rural areas were prone to leave keys in their automobiles and their houses unlocked. Now, it is not uncommon to have your car stolen and/or your living quarters broken into during the daytime hours. In fact, it has become quite commonplace.

All major cities have experienced this dilemma for some time, but it is now creeping into our rural areas with a great deal of regularity.

It has also been very infrequent up until just recently to have a perpetrator go into living quarters while someone was occupying it, but now again, this is becoming somewhat commonplace, as it is in the cities.

These types of acts are becoming almost to the point of terrifying to some of our residents that have no close neighbors and, being quite isolated, have a fear of finding someone in their home. Acts of breaking and entering, theft and vandalism leads to contempt of law enforcement officers. These acts also lead to more violent crimes.

Vermont law enforcement cannot possibly cover these rural areas adequately with existing manpower. It is not unusual to have one police officer patrolling several hundred square miles at any given time. One might think that one answer would be a greater number of police officers patrolling our rural areas. This certainly would alleviate many of the pressures on the present law enforcement officers and give an amount of peace of mind to the rural citizens; however, I feel that citizens are going to have to take a do-it-yourself attitude as far as protecting their property.

Much more awareness of programs such as the neighborhood watch program and similar ones that are being promoted through the International Chiefs of Police Association and the National Sheriffs' Association should be given.

It would appear that this might be the only defense for people in the rural communities. To this end I see the need for more awareness through national publicity to get the public mindful of this type of available program. Law enforcement officers also need to be made aware and trained in the art of crime prevention. Smaller States like Vermont find it extremely difficult to put on specialized programs.

Along with the crime prevention programs the Federal Government should support a nationwide operation identification program, which has two functions. First, having property marked properly, with a

standard number system, discourages the would-be thief when he knows a piece of property has been marked for identification.

Second, this property would be identifiable anywhere in the United States.

In our mobile society, it is not unusual to have something stolen in Vermont and have it end up in Connecticut, or New York, or even further away.

A national identification system similar to the National Sheriffs' Association program would aid the return of vast amounts of stolen property. Many times officers find property on a person and know very well that it is stolen, but cannot find where the offense originated or who owns the property. Subsequently, they cannot prosecute.

Vermont finds itself, in the light of Federal cutbacks, in dire need for funding just to keep up their recruit and inservice training for officers. I would look to the Federal Government to make available to local and State government special training that cannot be furnished economically in rural areas.

In the past many Vermont police officers have attended the FBI National Academy. Originally, there was a retraining program available on an on-going basis to these graduates; however, funding has been cut back which makes the retraining no longer available.

Vermont law enforcement agencies, because of the size of the communities find it extremely difficult to generate moneys to send officers to training school for one or more weeks duration. Often they cannot afford the travel expenses to far away places, let alone the cost of the training and lodging.

Why not a penalty assessment? Making the criminal pay for the law enforcement training may be one way for the Federal Government to generate funds to not only train their own people, but to train local officers.

It is almost impossible for the Federal Government to become involved in a day-to-day basis with local law enforcement needs, but the need for training is universal for law enforcement throughout the United States.

Government, whether it be Federal, State, or local has got to make a commitment, not only in theory, but in cold hard cash.

Hardware funding in the past did not seem to answer the problem. Funding for special training of criminal justice personnel and a hard campaign promoting ways for the public to aid and assist themselves seem to be in order.

Thank you, very much.

Senator LEAHY. Thank you. Mr. Hoyt?

STATEMENT OF DOUGLAS HOYT, CHIEF OF POLICE, MONTPELIER

Mr. HOYT. Thank you, Senator. I appreciate the opportunity to testify before the committee today. Being the last, I will definitely be repetitious; however, I think what I am going to say, I feel bears repeating.

There are many problems presently facing law enforcement. Due to the nature of those problems it is difficult to reach a consensus as to the priority in solving those problems. Or even if the problems can be solved.

You will hear today, have heard previously, and will hear time and time again about the soaring crime rates, how violence has leaked, and in some cases, flooded into our moral well-being. The problems associated with drug and alcohol abuse are ever-present occurrences. I will not further depress your thoughts with statistics which demonstrate that crime and its side effects have a negative impact on rural law enforcement and society in general. Nor shall I berate the economic or social conditions that are dealt with after the fact by law enforcement.

From my perspective a pressing problem in rural law enforcement is the education, training, and retention of professional police officers. How does a police administrator or community become proactive rather than reactive when a major concern and constant source of time allocation are the three issues I have just mentioned?

In the late 1960's and early 1970's there was the recognition of serious issues that needed to be addressed within the criminal justice system. Law enforcement received many standards to address those issues which were very noble and worthwhole standards. While some of those standards would have to be modified, most are still applicable today. And of course to meet those standards LEAA was born.

There can be no question that the system used for the allocation of those funds would and did collapse. Yet the only program that was successful, from my point of view, was the law enforcement education assistance program set up under LEAA funds. It is grossly unfortunate this program did not continue in order that it might fully mature and bear the fruit intended. This is educated police officers for society.

Having seen an educated police officer interact on a more personal basis with those of our society who have indeed been unfortunate and have the capability to comprehend those person's social and economic problems is wonderful indeed. Granted there are many less educated officers who perform equally well in this area. Yet the fact remains that the educated officer has the ability to adjust to our ever changing society and at least be the capable firstline response needed.

More recently a pilot program that evolved from the U.S. Attorney General's Task Force on Violent Crime was announced that they would provide training for State and local law enforcement to combat serious crime. I have been told that training programs are now being conducted. This with the added Federal emphasis on closer ties between all levels of law enforcement presents an opportunity that should not be allowed to slip away. The funding for this should never be allowed to disappear. Yet it should also expand in a way that more officers are trained in the most expedient manner.

It is indeed important that several hundred police officers receive training in a particular subject matter and then become instructional resources for those agencies. Yet it will take a great deal of precious time for the trickle down of this educational process to reach the officer on the street.

Yet from a rural perspective a course dealing with explosive devices is not a priority. This coupled with the fact that there are abundantly more small rural police departments in this country raises questions in my mind about setting of priorities.

I feel the program should be expanded in scope regarding the group to be educated. Efforts must be undertaken to subsidize the

formal education of each police officer to reach the highest level of education that the officer is capable of. Very much in the same manner as before. The specific and practical type of training must also be supported in a similar manner.

This training is all the more crucial in a rural area such as Vermont. The patrol officer in an average rural police department is the general practitioner in law enforcement. He or she serves all the roles that larger agencies have a specialist to perform. The rural police officer's function is then one of the greater flexibility. How often does it happen though that when an officer's training or formal education is limited the important matters and decisions are left to chance? I suggest that it occurs more than it should.

Most people now recognize that the concept of having the strongest guy on the street as their enforcer has gone the route of the 10-cent candy bar. Today's police officer must be able to interact in a firm and positive manner with those who make up the various levels of social deviance. And at the same time find compassion for the victim of criminal behavior. Today's police officer more than ever must present his information in a clear and accurate manner that is to be scrutinized by several lawyers, who have different motives in the lengthy litigation process. The uneducated and ill-prepared officer is often at a distinct disadvantage.

Make no mistake, I am not suggesting that formal education at the college level is a panacea for this aspect of law enforcement. Yet I know there are those that believe there should be such a requirement. The selection process is difficult and a great deal of material has been produced addressing the subject. The tasks of selection, practical training, and subsequent officer production would be more rewarding. Society as a whole would then benefit. Would our crime rate be reduced? Perhaps it would. No one holds the solution to that problem, because as a group we are continuously reacting to those statistics. I am sure that agreement can be found that one of the first inputs into the solution formula is the human referred to as the police officer. The police officer then deals with the human offender. Lacking the formal educational skills and appropriate practical training the rural officer is destined to merely reacting.

Assume for a moment we in law enforcement have our adequately educated and trained officer. The beginning of our solution formula is now working his average of 50 to 60 hours per week. His wife and children are having an identity crisis as to who their husband and father is. He has been on the job for the last 25 years and is now 55 years old.

My educated police officer is now having great difficulties managing to catch and physically subdue that 17-year-old who burglarized your house. Confronting an armed robber is not really on his agenda. No one really knows how many domestic abuse situations he has been to in the last 25 years. But he cannot bear the thought of one more.

In other words this officer has now become psychologically retired. The only problem that remains is establishing what a rural police department can realistically do with such an individual who gave body, soul, and mind when he has another 10 years to go before retirement.

There is, however, no doubt as to the results of the current situation. Those results represent a decline in officer productivity. Response to serious crime is reduced. The taxpayers are then not getting their money's worth. The bottom line is then a negative input on crime.

What I have tried to briefly portray is the cyclical barrier to at least reaching a firm response to crime in rural areas. The education and training aspect is crucial to addressing rural crime. The retention of that officer, or an equal is also crucial. But the formula will not compute when the future holds no promise.

I have no readily available solutions or suggestions that would involve the Federal branches of law enforcement in the retention issue other than what I have touched upon. Yet the factor is often overlooked as a potential for part of the causes of rural crime.

To ignore the aspect that rural law enforcement agencies generally cannot retain experienced officers when faced with retirement at 65 years of age and expect capable crime fighting resources is to ignore the existence of human nature.

Can the U.S. Senate Committee on the Judiciary address these problems? I believe appropriate responses can be made in the area of education and training. Perhaps not in the area of retirement. Unless of course there is a national effort to address the issue in recognizing that the police officer is law enforcement's most valuable resource in fighting crime. He must be well trained and the most must be made of youthfulness. This is all quite difficult when applied to current rural conditions.

Thank you.

Senator LEAHY. Thank you, very much, Mr. Hoyt.

I will start off with a couple of questions, first, of Judge Kilburn. We have heard here today and we hear in Washington how many defendants are being processed through the criminal justice system. I think somebody pointed out that we presently have more people behind bars than in any time in the Nation's history. Certainly, I don't know of any major jurisdiction in the country where the court dockets are going down. They are constantly going up. Are you seeing defendants before you in court that should have been dealt with in some other way? Is that a real problem?

Judge KILBURN. You are correct in observing as others have pointed out today that the caseload is on the increase. I don't know how we can answer the question.

If there are that many offenders who are breaking the laws, there has to be a better way of dealing with the offenders.

The key is in the prosecutor's office, in terms of their discretion as to what cases to prosecute and what cases not to prosecute. We are also experiencing an increase in the cases referred to diversion programs. A lot of them are being diverted, and a lot of them are being prosecuted in the courts.

The key to it is a prosecutor with good judgment and good commonsense, and the ability to exercise his discretion on that end, because that has the most impact in the number of cases in court and the number of cases the prosecutors bring.

Senator LEAHY. Have you seen any major impairment on the part of crime, because of the exclusionary rule; does that come up very much in your court?

Judge KILBURN. Those are issues that are raised frequently, and they are raised by the better attorneys who are skilled in recognizing those issues, because they have a solid foundation in criminal law. They know how to practice it, and they practice it well.

The problem from where I sit is in the ability of the State to present its cases. In those cases where the exclusion is just filed, then the judge recognizes the necessity of excluding the evidence, and in my experience, he does so. The prosecutors also, sometimes before the fact, recognize the fact that certain evidence will be expended and do not pursue the matter; but generally speaking, in my experience, and I travel throughout the system or the jurisdiction circuit, I am surprised that so many police are crying for education. From my experience, I have seen police officers who are very much in tune with what is going on in criminal law. I find police officers very well informed and exercise good judgment.

Senator LEAHY. Do you see any need for the Federal Government to do something along the lines as we discussed earlier today, the area of criminal legislation which would allow the Federal Government to step in and take over the apprehension of somebody who had committed a certain number of serious felonies, or is that something we ought to be relying on the States to take care of?

Judge KILBURN. I guess the simple answer is to affirm most of what Senator Welch had to say. We are in a position to handle it ourselves. The one thing is we are not in a good position to return the individual once he had crossed the State line, that is in terms of extradition and sentencing. I think most of us would agree that we could use more Federal assistance in that area, in returning area criminals to Vermont for prosecution.

Senator LEAHY. Mrs. Rose, is there any way really that a victim of a crime ever can be made whole again, or can we only make an attempt at that?

Mrs. ROSE. With regard to the criminal justice system?

Senator LEAHY. Yes.

Mrs. ROSE. I think a victim can recover from the crime. It is a long, drawn-out process, and I think we can make it easier to recover. That they will ever be complete and free of stress, I am not sure that we can really relieve all the stressful points, but we can certainly improve it.

Senator LEAHY. Is it an overstatement to say that many times the crime or the aftermath of the crime is much worse than the actual crime itself, if there is no help for the victim?

Mrs. ROSE. I think that the criminal justice system has the ability to help heal the prosecution or to really make it much worse than it is. It really depends on the quality of the law enforcement, the prosecutors that the victim runs up against, and if they know what they are going through psychologically and emotionally.

Senator LEAHY. Is this something that we should be trying to do as a Federal program, or is this something better left to the State? Vermont is one of the States that does not have a victim program, as such.

Mrs. ROSE. I think that it really is a State problem, but it is a nationwide problem, and many States need encouragement of the Federal Government to institute programs for victims.

Senator LEAHY. I would like to ask the same question of both Chief Hoyt and Chief Graham—and I am thinking, seeing Chief Hoyt here makes me think that when we were growing up as kids in Montpelier, that was the time that you normally didn't lock your houses. But I can remember our own house on State Street, when my parents or all of us in the Leahy family would go away on vacation. We would lock the front door and leave the side door or the kitchen door unlocked so if the mailman had a package or if one of the neighbors had to come in and borrow something, they could get in easily.

There is a change in Montpelier and everywhere else, and yet our law enforcement is set up much the same way, perhaps with more people and better equipment. But should we be looking in areas where we have small cities and small towns, or should we be looking for regional forms of law enforcement, where several communities band together? Should we go to more regionalized law enforcement? I want to ask you, Chief Hoyt, that question first, and then Sheriff Graham.

Mr. HOYT. The concept of the regionalized police force probably has been pretty well studied. I tend to agree in principle to the concept of regionalized police forces in that it will provide more manpower and the ability to separate out from within the police force itself those specialized in combating crime. The problem in the concept of regionalized police force is getting over the stiff, sometimes adamant attitudes within the different police forces and the different physical descriptions of an area. Say, for instance, as to Washington County, could you ever see the day where Barre, Montpelier, Northfield, and Waterbury would in reality go totally to a joint police force?

Perhaps it is unfortunate, but crime does not recognize class division and geographical boundaries. Why should police officers who are into crime fighting actively try to recognize those particular boundaries? It doesn't make any sense. My answer to the question is, I don't have the answer.

Mr. GRAHAM. I guess my answer would be just the opposite. My feeling on this is that bigness is not greatness. That is one of the problems I see with regionalization. One of the problems is that one department is well educated, trained and has equipment right next to one that isn't. I think jurisdictional problems occur so that one can't complement the other. I think Vermont is individualistic. What is good in Brookline, Vt., may not be good in Vergennes. That is why I have a problem with trying to get just a generalization of police services. I think Waterbury has different needs than Burlington; even the weather has its differences. I would not be in favor of regionalization of police forces.

I think it is very critical that all police officers have a standard educational level and training and recruiting processes.

Senator LEAHY. What about some standard resources, though, like a well-equipped lab, a well-equipped statewide training facility, a well-equipped and workable communication and information system? Are these things that can be done on a regional or statewide basis, at least in rural areas?

Mr. GRAHAM. Obviously, no small community can afford lab facilities. You just mentioned the three areas you could—I just don't like the word regional. We could use a statewide facility in communications. We do have a lot of repetition in the communications system in

law enforcement. We already have a training academy for all police officers, and the lab is something that does need improvements; and I think that is the way to go, either by the Federal Government or the State lab facility, and of course, the computer retrieval, if you want anything like that, but just the day-to-day regulation of the police force or manpower. I think it is nonacceptable in the State of Vermont. We have had some votes in some towns, and found it not acceptable. It is a study that is sitting on somebody's back shelves.

Mr. GITENSTEIN. I have one question for all four of you. In the Senate, the Senator will have to make a decision about what to do as far as a followup on LEAA, involving the $150 million range. It will have two basic characteristics. It will either be a program similar to what was developed by the House Judiciary Committee. The other one gets rid of the blanket grant concept and moves toward the idea generating program that would develop practical ideas, that would perhaps be available to criminal justice officials like yourself, but with a limited amount of money. You would get money for a year or so, and then you would be on your own.

Would it be easier for you to get new ideas, if you were in our place and looking at this from your point of view, and if you had a choice between the House version and the Senate version, which would help you the most, getting the money or getting the ideas?

Mr. HOYT. You may recall sometime ago, there was a popular term used to refer to police officers. It was spelled P–I–G. I would like to have both of those. Why not have both the money and the ideas.

Mr. GITENSTEIN. The problem is that the President and the Congress is not going to give us that much money. They are going to allow us to have one or the other. If you could only do one, which would be more valuable to you?

Mr. HOYT. Without getting into the whole issue as to how they are allocated, if a block grant is granted to the State of Vermont and then if you have the allocation process, it may not make its way down to the police department, say the police department in Montpelier, unless it is a tremendous amount of money.

Mr. LEAHY. One of the things I will be doing as we get close to a decision, I am going to be corresponding with an awful lot of you to tell you about some specific alternatives and asking for some advice. I will also be doing this in other States, too.

Judge KILBURN. You may perhaps know what my answer will be. Spend the money on your programs, spend the money on hurricane relief, spend the money to fix the roads, but stay out of the criminal justice business. I say that not disrespectfully. I say that with several years experience having served on several commissions and various advising groups, and having seen firsthand what happens when the bucreaucracy administers tax dollars. I don't look with optimism to the approval of the block grant process. We have ideas in Vermont. We are very good at it. We also have money. We just sometimes don't agree on our priorities.

I think that once the crime problem becomes severe enough so that Vermonters recognize it is a matter of priority, they will put a tax on it, when they recognize that alcohol causes a great share of our problems, and they won't go looking to Washington to provide those dollars or ideas.

Their ideas are oftentimes not appropriate to our situation, so I guess I am saying neither money or ideas.

Mr. GRAHAM. I think what happens is that rural and small communities get shortchanged on block grants. It is so small, we don't get anything. Sometimes the idea program gives some ideas, but if we don't have anything to implement them with, we can't use the ideas. I don't think either is suitable to our needs. Only the bigger operations would get a better opportunity to make use of a large block grant rather than the small communities like Wilmington.

Mrs. ROSE. Like everyone else, I would like to see a combination of both ideas and of money coming into the State. I would like to see funding for specific programs, such as advocating programs within the criminal justice system. They are things that need to be done and done soon.

Senator LEAHY. Thank you. With that, we will bring the hearing to a close. I said I will keep the record open for a week. If anybody, either those who have testified want to add further material, or if anybody who has been observing the hearing wants to add material in reference, pro or con, to the voices they have heard here today, please do that, and it will be made a part of the full record.

I want to thank everyone who has worked actually for months in getting this together for all the work that has been done. I can only reiterate that in 90 percent of the cases, the hearings in Washington, whether before the Judiciary Committee or any other committee, are made up primarily of people who are testifying for a living. They are professional testifiers. They represent different groups to the right or the left, or business groups, or consumer groups, but that is their business.

It is only a small fraction of the cases where we get out and have hearings outside and hear people that are the most involved. That is what we have done here.

I hope that the other hearings on rural crime will be done in the same way. Certainly, sometime, some of the testimony will be in Washington, but I hope for more outside of Washington.

I don't think that the testimony we have heard here today would have been heard in Washington. For me, it is a luxury to be able to come up here for a hearing. When I am in Washington, everyone is on an average of at least four or five subcommittees, often meeting at the same time. It is a luxury to stay at one hearing.

Rural crime is not an issue that is going away, and not an issue that we are going to ignore. On the Judiciary Committee, we have 18 Senators. I will be discussing this hearing at some length on Thursday when I join Senator Thurmond in South Carolina and with Senator Biden right after Labor Day.

I thank you very, very much for your time, and we will stand in recess.

[Whereupon, at 2:30 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL SUBMISSIONS FOR THE RECORD

AGENCY OF HUMAN SERVICES
103 SOUTH MAIN STREET
WATERBURY, VERMONT 05676
(802) 241-2220

1982 SEP -1 AM 10:49

OFFICE OF THE SECRETARY

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STATE OF VERMONT
AGENCY OF HUMAN SERVICES

August 27, 1982

The Honorable Patrick Leahy
United States Senate
Russell Building, Room 232
Washington, D.C. 20510

Dear Senator Leahy:

I am submitting this letter and the attached comments as testimony for the record of the U. S. Senate's Hearing on rural crime held in Burlington, Vermont on August 23, 1982.

You heard about rural crime from many different perspectives. I did notice that the post-adjudication end of the criminal justice system was not represented, i.e. the Vermont Department of Corrections and Social and Rehabilitative Services (SRS).

I work as Juvenile Justice Planner for the Vermont State Agency of Human Services (AHS), which encompasses both Corrections and SRS. I help to staff the Governor-appointed Delinquency Prevention Coordinating Council (DPCC). The Council oversees distribution of the federal Juvenile Justice and Delinquency Prevention (JJDP) funds received by Vermont and monitors State compliance with the mandates of the JJPP Act (of 1974, as amended through 1980).

This testimony is an expression of my own views; it does not represent an official position by either the AHS or the DPCC. However, I will share my opinions with both the AHS and the DPCC, as I am sharing them with you.

I urge you to carefully consider the testimony of Judge Ronald Kilburn, Attorney Peter Langrock and Vermont State Senator Peter Welch. They emphasized that rural crime can be more effectively and cheaply controlled by shifting priorities toward employment and other preventive methods and away from criminal justice sanctions. Their perceptions are solidly grounded in the actual research and experience generated nationally since 1968 when the Law Enforcement Assistance Administration (LEAA) was created to combat crime.

Thank you for listening.

Sincerely,

Brenda Patterson

Brenda Patterson
Juvenile Justice Planner
AHS Planning Division

Enclosures.

Comments for the Record of the
U. S. Senate Hearing on Rural Crime
in Burlington, Vermont on August 23, 1982
submitted by Brenda Patterson,
AHS Juvenile Justice Planner

My comments will address two issues:

1) the incidence of juvenile crime, and
2) effective ways to improve the juvenile justice system

1) The incidence of juvenile crime

The number of juvenile cases disposed by the Vermont District Court and Defender General's Office over the past six years (from July 1, 1976 - June 30, 1982) has increased about 50%, mostly within the past three years.

Juvenile Cases & Adult Cases Transferred to
Juvenile Court

# Cases Disposed	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	FY 1982	% Charge 77-82
-by VT District Court	1094	1054	1154	1265	1668	1734	+58%
-by Defender General	727	757	793	829	1044	N/A	-
% Court Cases handled by Defender General	66%	72%	69%	66%	63%	N/A	-

Many factors account for the increase.

There has been a shift in public and professional attitude/philosophy toward holding juveniles accountable for each act, so the police and State's Attorney are bringing more charges. Also, for the past three years - since the start of FY 80 - a Vermont law has been in effect requiring that even those cases the State's Attorneys' think should be referred to Diversion must first be filed in District Court. Thus, the greatest increase in the number of juvenile cases disposed has been for delinquency (as opposed to unmanageability or neglect and abuse, "CHINS").

Type of Juvenile Cases Disposed by
the Defender General

	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	% Charge 77-81
Delinquent	353	339	364	410	528	+50%
CHINS	374	418	429	419	516	+38%
Total	727	757	793	829	1044	+44%
% Delinquent of Total	49%	45%	46%	49%	51%	-

There has also been a shift in public and professional attitude/philosophy toward reporting instances of domestic violence, sexual abuse, etc. This may account for some of the increase in CHINS cases.

During these six years, Vermont's juvenile population and economy have been fairly stable. However, within the past two-three years, many of the youth employment programs, youth service bureaus and other forms of federal assistance for youth have been disbanded.

Some of the juvenile cases appearing before the Court and Defender General may be a result of this reduction in resources for dealing with youth before they engage in anti-social behavior.

2) Effective ways to improve the juvenile justice system

First, I want to emphasize that the approach to improving criminal justice used in the past by LEAA and still by JJDP does work.

Major changes to the criminal justice system in Vermont have been accomplished as a result of this combination of advocacy around research/ideas and grant money to help implement those ideas. An approach lacking either the capacity to generate and research ideas or the money to implement and experiment with those ideas through projects, would necessarily lead to less rapid, more random improvements in the criminal justice system.

With 13.5 million LEAA and JJDP Block and Discretionary FY 1969-1979 dollars as "seed money", the State of Vermont successfully established:

2) Effective ways to improve the juvenile justice system (continued):

- a computerized Vermont Crime Information Center (VCIC) for State police, an Incident Reporting System (IRS) for local police and a data system for the Motor Vehicle Department to better know about their activities, arrests and resulting convictions.

- a radio and emergency dispatching network to improve communications and response time for State and local police.

- Planning and Research Divisions within the Court Administrator's Office and the Corrections Department to help them identify and better manage their caseloads.

- centralized management and budgeting for the fourteen State's Attorneys' offices in the State, to better align the distribution of their resources with needs.

- the appellate unit within the Attorney General's Office and temporary consumer fraud and civil rights divisions.

- a Defender General's Office and public defender system.

- the Diversion system.

- the CRASH alcohol-education program for DWI offenders.

- the closing of Windsor Prison and subsequent upgrading of other adult facilities to more closely meet American Correctional Association standards.

- The closing of Weeks School and subsequent development of more varied placement alternatives for juveniles.

- a purchase of service approach to meeting juvenile and adult offender needs by using community resources.

The money was put to other uses as well. Some was used to improve the State police crime laboratory and buy other police hardware; 15% was devoted to training criminal justice personnel.

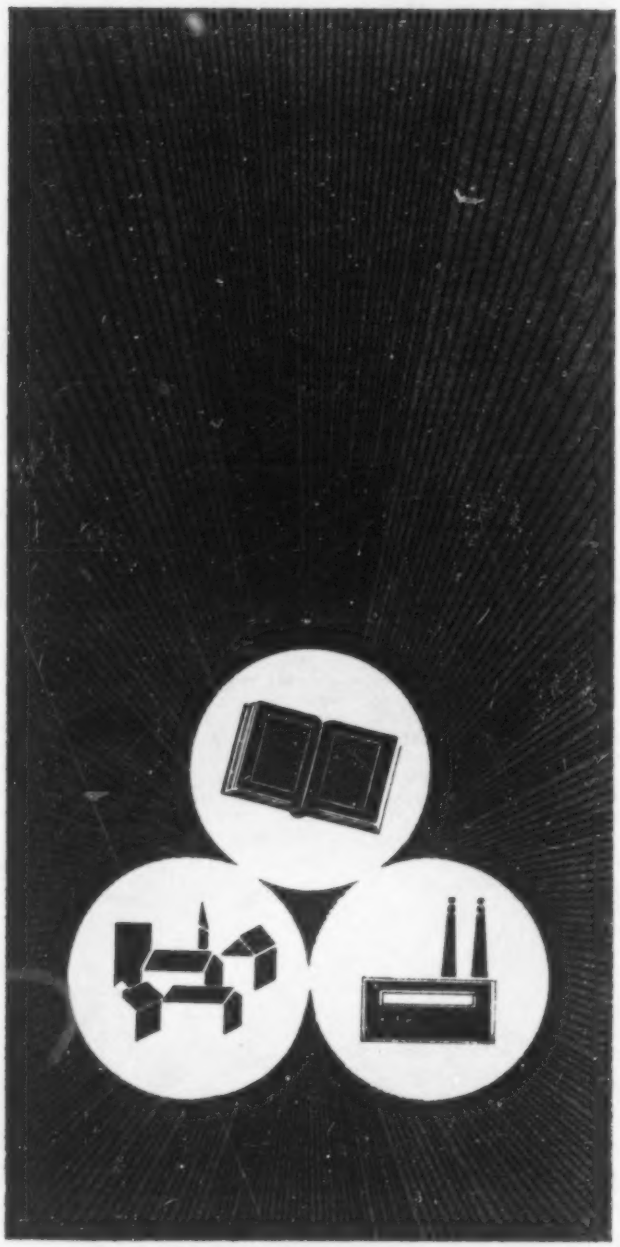
$1,746,367 went into efforts to reduce juvenile delinquency in Vermont. We still don't have final answers, but the experimentation seems to have paid off since -- with this most difficult problem (or desired result) of all to measure -- we now have methods that have been shown locally and elsewhere in this country to work. Please see the attached brochure from the U. S. Department of Justice, "Delinquency Prevention: A Promising Approach". Incidentally, the brochure is heavily based on a draft written here in Vermont by the former Juvenile Justice Planner, Jack Pransky.

The 'promising approach' is to change "the policies and practices of those institutions that are important in young peoples lives, i.e. schools, the work-place and employment organizations, and community service organizations." Changing how institutions operate can be a very threatening and hence time-consuming process. As Senator Leahy said earlier in this hearing, "Achieving results takes years of nurturing."

No organization is taking effective leadership in the essentially political task of preventing delinquency except Congress by appropriating funds for the Federal Office of JJDP and reauthorizing the JJDP Act.

U.S. Department of Justice
Office of Juvenile Justice & Delinquency Prevention

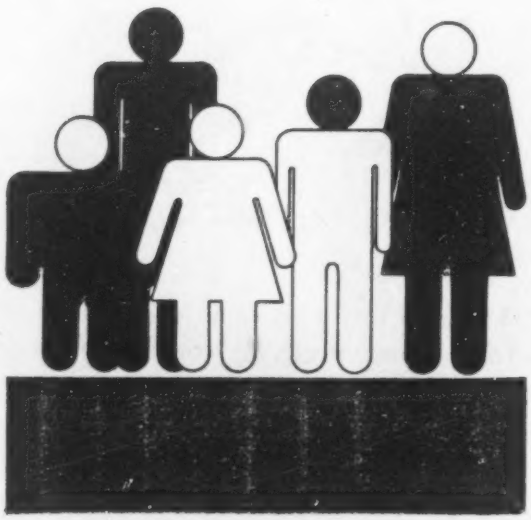
Delinquency Prevention: A Promising Approach



Which young people are most likely to get into trouble?

The traditional stereotype of the juvenile delinquent is not accurate. Studies show a wide scope of troublesome behavior among:

- Youth from all economic groups
- Youth of all races and ethnic groups
- Females as well as males
- Rural as well as urban youth
- Youth from intact families as well as those from broken homes.



What needs do all youth have which help determine how they behave?

All young people have similar needs:

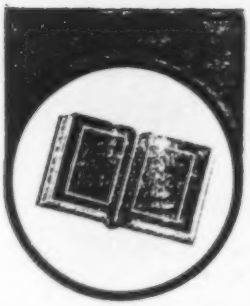
- To feel useful
- To belong
- To exert influence over their lives
- To be viewed favorably by family, peers, teachers, neighbors, and employers.

Those youth who remain trouble-free fulfill these needs by forming a bond with the conventions of society.

What strategies are most likely to produce conditions that help generate this bond to society?

In today's society, opportunities for bonding are made available to youth through their interactions with organizations and institutions.

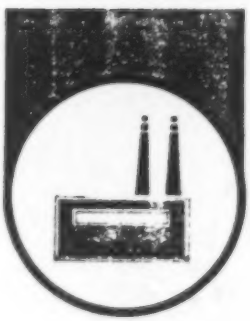
Rather than developing programs that focus on changing the young person, contemporary research indicates that the most promising approaches to delinquency prevention call for changing the policies and practices of those institutions that are important in young peoples lives, i.e., schools, the workplace and employment organizations, and community service organizations.



What changes can be made in the schools?

Schools can change their policies and practices in order to:

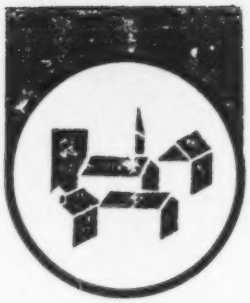
- Broaden curriculum
- Expand opportunities to participate in school operations
- Change student classification policies
- Change the discipline system to be fair, consistent, and clear.



What can employers do?

Employers can work with youth in order to:

- Place more attention on the quality of work being offered to young people
- Expand the work being offered to young people.



What can community service organizations do?

Community organizations can:

- Provide support and assistance to employer and community service organizations to design specific and practical changes
- Encourage the cooperation of employment agencies, employer organizations, employment agencies, and schools to improve recruitment, eligibility criteria and referral services.

Changes in organizations can make the difference.

For further information on this approach to delinquency prevention and the accompanying audio visual presentation contact:

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